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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 SOUTHERN DIVISION
4
5

NANCY MARTIN and
6 MARY BETH BRACKIN,
7 Plaintiffs,
8 vs. CASE NO. 1:05-CV-1172-MEF
9 CITY OF DOTHAN and
JUDGE ROSE EVANS-GORDON,
10
11 Defendants.
12
13

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14 * * * * *

15 DEPOSITION OF MARY ELIZABETH BRACKIN, taken
16 pursuant to stipulation and agreement before Sherry
17 McCaskey, Court Reporter and Commissioner for the
18 State of Alabama at Large, in the Dothan Civic
19 Center, 126 N. Andrews Street, Dothan, Alabama, on
20 Wednesday, October 10, 2007, commencing at
21 approximately 8:40 a.m.

22 * * * * *

23

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1 APPEARANCES
2 FOR THE PLAINTIFFS:
3 ISHMAEL JAFFREE, ESQUIRE
Jaffree Law
4 951 Government Street
Suite 415
5 Mobile, Alabama 36604
6 FOR THE DEFENDANTS:
7 CAROL SUE NELSON, ESQUIRE
Maynard, Cooper & Gayle
8 Attorneys at Law
2400 Amsouth/Harbert Plaza
9 1901 Sixth Avenue North
Birmingham, Alabama 35203
10

10

ALSO PRESENT:

11

Judge Rose Evans-Gordon

12 Ms. Michelle Sellers

13 * * * * *

14

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1 STIPULATIONS

2 It is hereby stipulated and agreed by and
3 between counsel representing the parties that the
4 deposition of MARY ELIZABETH BRACKIN is taken
5 pursuant to the Federal Rules of Civil Procedure and
6 that said deposition may be taken before Sherry
7 McCaskey, Certified Court Reporter and Commissioner
8 for the State of Alabama at Large, without the
9 formality of a commission; that objections to
10 questions other than objections as to the form of
11 the questions need not be made at this time but may
12 be reserved for a ruling at such time as the
13 deposition may be offered in evidence or used for
14 any other purpose as provided for by the Federal
15 Rules of Civil Procedure.

16 It is further stipulated and agreed by and
17 between counsel representing the parties in this
18 case that said deposition may be introduced at the
19 trial of this case or used in any manner by either
20 party hereto provided for by the Federal Rules of
21 Civil Procedure.

22 * * * * *

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1 (Witness waived right to read and
2 sign.)

3 MARY ELIZABETH BRACKIN

4 The witness, having first been duly sworn to

5 speak the truth, the whole truth and nothing but the
6 truth, testified as follows:

7 EXAMINATION

8 BY MS. NELSON:

9 Q. Ms. Brackin, we met earlier off the Record,
10 but my name is Carol Sue Nelson. I'm attorney
11 for the City of Dothan and also for Judge
12 Rose-Gordon. I'm going to be asking you some
13 questions today about your claims against the
14 judge and the City.

15 If you do not understand me, please let me
16 know. I'll be glad to rephrase. Otherwise,
17 I'll assume that you do understand and are
18 answering truthfully.

19 Is that understood?

20 A. Yes.

21 Q. And we're both nodding our heads, but just
22 because the court reporter has to take
23 everything we say down, you need to speak up

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1 and answer as opposed to nodding or shaking
2 your head. Or even an uh-huh or huh-uh is
3 sometimes not intelligible on the Record. So
4 if you can say yes or no, I think we'll
5 understand each other.

6 Is that okay?

7 A. Yes.

8 Q. If you need to take a break, just let me
9 know. We'll, you know, probably take most of
10 the day today, but we'll take a break for
11 lunch for sure. But otherwise, if you need to
12 take a break, just let me know.

13 But if there's a question on the table,
14 meaning if I've posed you a question, I'd like
15 for you to answer before we take that break.

16 A. Sure.

17 Q. I'd also like to just, you know, remind
18 everybody here, and for the Record, that, you
19 know, there's a Protective Order in this case
20 by the judge of the court that we are not to
21 release or discuss any documents regarding any
22 personnel files or personnel matters or people
23 that we talk about. And that's to any person

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1 not a party to this case. And that's under
2 sanction of Court, so I just wanted to remind

3 us all about that.

4 Also, I'm going to be showing you some
5 exhibits, and I'm going to mark Exhibit 1 here
6 today, which is the document that I sent to
7 your lawyer asking you to be here today.

8 (Defendants' Exhibit 1 was marked
9 for identification.)

10 Q. We've had some difficulty scheduling this, and
11 through no one's fault. I'm not saying that.
12 I don't know if you've seen this particular
13 document, but it's a notice of your
14 deposition.

15 Have you seen this or something similar to
16 this?

17 A. Yes.

18 Q. Okay. And when I asked for you to be here
19 today, I also asked you if there were any
20 documents that you had in your possession that
21 you retained, that either were given to you by
22 the City of Dothan or Judge Gordon, or any
23 documents that might support your case or that

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1 you reviewed to prepare or your tax returns.

2 So let's just kind of take them -- did you
3 bring any documents with you today?

4 A. Yes.

5 Q. Okay. And do you have them with you, or does
6 your attorney have them?

7 A. I have them.

8 Q. And, again, any and all documents provided to
9 you by either the City or Judge Gordon, do you
10 have any of those documents with you?

11 A. The documents that I have are letters that
12 were -- or evaluations -- the copies of
13 evaluations that I made for myself.

14 MR. JAFFREE: Did you make me copies
15 of those documents?

16 THE WITNESS: I didn't get to make
17 copies of these.

18 MS. NELSON: Maybe at a break we can
19 get you copies of all of them.

20 If it's something I have a copy
21 of, I may --

22 A. Yeah. This should be in my personnel file.

23 Q. May be in your personnel file.

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1 A. Right. And then a letter dated November 5th,
2 2001.

3 Q. From whom is that?

4 A. From Judge Gordon.

5 Q. Would that be in your personnel file?

6 A. I don't know. I'm -- it should be. But I'm
7 not -- I don't know what's in my personnel
8 file.

9 MR. JAFFREE: Did she give you that
10 letter with coffee stains?

11 THE WITNESS: I don't know.

12 MR. JAFFREE: I don't know what kind
13 of stain that is.

14 THE WITNESS: I don't know.

15 Q. Okay. Anything else?

16 A. And then just copies of where I was served
17 with hearing notice.

18 Q. Regarding your discipline or termination?

19 A. Yes, ma'am. And that should be in my
20 personnel file. That is that. That is just
21 my administrative leave memo that --

22 Q. You were placed on leave?

23 A. -- was given to me.

0009

1 Q. Okay. I may come back and ask you about
2 these.

3 A. Okay.

4 Q. I'm just trying to get a handle on what --

5 A. And then my termination. And then another
6 copy where it was dated March 22nd of '04.

7 Q. This involves a claim of false arrest by
8 Theron Fondren?

9 A. Yes.

10 Q. Okay. And the other letters from the judge --
11 I'll ask you about and identify more
12 completely for the Record -- was in November
13 of 2001, involved remarks made in the presence
14 of a bondsman --

15 A. Right.

16 Q. -- during the course of a defendant with an
17 appeal bond. Was this the -- I may not be
18 pronouncing it right. Was the Ralpeje
19 matter? Does that name mean anything to you?

20 A. It does. But I mean, I'm not sure if that was
21 the exact name for this. But --

22 Q. Thank you.

23 A. And then this was dated December 30th of '99.

0010

1 That is in my file. I don't know if that's in
2 my personnel file. That's something from
3 Captain Jim Smith when he was employed with
4 the Dothan Police Department when I was still
5 working with them whenever I applied for a
6 position.

7 Q. Okay.

8 A. I don't know. That may be in my personnel
9 file.

10 Q. Yeah. I'll ask you more about that, and I may
11 need to get copies.

12 A. And I've got --

13 Q. Before we do that, then do you have any other
14 -- then I asked you for any notes, diaries,
15 calendars?

16 A. I don't have a diary.

17 Q. Anything like that. You've got a -- I don't
18 know if that's a checkbook or calendar out
19 there. Does that have anything to do with
20 this case or is that -- you were just
21 looking --

22 A. No. This is just my -- to write down --

23 Q. 2007?

0011

1 A. Yeah. That's just to write down my personal
2 stuff. This -- now, I did make copies of the
3 notes that I had taken on pieces of paper that
4 I had that I've made copies for you already.
5 But this is just one copy.

6 Q. And this is my copy --

7 A. Yes, ma'am.

8 Q. -- of the handwritten notes?

9 A. And then this is the copy of -- some of my tax
10 forms, because we have moved since then, so --
11 but I have already requested those that are
12 missing. I've got 2000 and -- State of '03;
13 2005, a 1040, 2006 1040 and State. But the
14 others I have requested copies of.

15 Q. I just ask that you provide that to me when
16 you get them.

17 A. Yeah. It's going to take a couple of weeks I
18 think.

19 Q. And any other documents that you would have
20 that would support your case or that you've

21 reviewed to prepare for today?

22 A. This is just a copy of my transcript hearing
23 that I had back in '05. I don't --

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1 Q. That was your transcript hearing from your
2 Personnel Board hearing --

3 A. Yes, ma'am.

4 Q. -- following your termination?

5 A. I know the City has a copy of that. So I'm
6 not sure --

7 Q. Can I just flip through it?

8 A. Sure.

9 Q. And just kind of refresh myself what --

10 MR. JAFFREE: Do you have any notes
11 in there?

12 THE WITNESS: There's some notes
13 written on my transcript from
14 me.

15 MS. NELSON: Well, I just --

16 MR. JAFFREE: I mean, the City has a
17 copy of that.

18 MS. NELSON: Well, I'm just
19 checking.

20 Q. I'm not looking at your notes.

21 A. I just put it in a binder because it's --
22 since it was so thick.

23 Q. Okay.

0013

1 A. And then this is just a tablet for me to write
2 on today if I need it.

3 Q. The other notes you have there, is that
4 what --

5 A. This is -- this is those copies.

6 Q. That you made copies?

7 A. Right. That's this right here (indicating).

8 MS. NELSON: We can go off a minute.

9 Q. Just a few more preliminaries, Ms. Brackin.

10 Well, first of all, will you state your full
11 name for the Record, please?

12 A. Mary Elizabeth Brackin.

13 Q. You know, again, I stated I'm going to be
14 asking you questions about your claims against
15 the City.

16 Are you currently under any type of
17 medication or any other substance that would
18 prevent you from answering my questions

19 truthfully?

20 A. No, ma'am.

21 Q. Or from preventing you from understanding my
22 questions?

23 A. No, ma'am.

0014

1 Q. Are you under -- currently under the care of a
2 doctor?

3 A. Not other than just the annual checkups that
4 women receive.

5 Q. When you say -- kind of like your OB/GYN?

6 A. Yes, ma'am.

7 Q. Are you on any prescription medications?

8 A. Yes.

9 Q. Can you tell me what those are?

10 A. Effexor.

11 MR. JAFFREE: Let me object to that.

12 I'm not sure what, if anything,

13 has to do with your defense.

14 But just for the Record, I

15 object.

16 You can go ahead and

17 answer.

18 Q. Go ahead.

19 A. Effexor.

20 Q. And will you give me your Social Security
21 number, please?

22 A. [REDACTED].

23 Q. And your date of birth?

0015

1 A. Is [REDACTED]

2 Q. And do you have an Alabama driver's license?

3 A. Yes, ma'am.

4 Q. Do you know what number that is?

5 A. Yes, ma'am.

6 Q. Give me that.

7 A. [REDACTED]

8 Q. And what is your current address?

9 A. 695 Sandstone Drive, Dothan, Alabama, 36303.

10 Q. And how long have you lived there?

11 A. Approximately one year.

12 Q. And where did you live prior to that?

13 A. We lived at 105 Cricket Court, same city and
14 zip. And we lived there for approximately two
15 years.

16 Q. When you say "we," are you married?

- 17 A. Oh, I'm -- yes. I'm sorry.
18 Q. And what is your husband's name?
19 A. Joseph Allen Houston Brackin.
20 Q. And how long have you been married to him?
21 A. Nineteen-plus years.
22 Q. Have you been married to anyone besides him?
23 A. Yes.

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- 1 Q. And who were you married to prior to that?
2 A. Ronnie Allen Monday.
3 Q. And how long were you married to him?
4 A. Approximately one year. Maybe a year and a
5 few months.
6 Q. Any other marriages?
7 A. No, ma'am.
8 Q. Do you have any children?
9 A. Yes, I do.
10 Q. And how many children do you have?
11 A. Two.
12 Q. And what ages are they? Just give me their
13 names and ages.
14 A. Michael, he's 21, and Matthew is 13.
15 Q. Do they live with you?
16 A. Matthew does.
17 Q. And Michael's father is?
18 A. Ronnie Allen Monday.
19 Q. And Matthew's father is?
20 A. Joseph Brackin.
21 Q. And Mr. Monday, does he still live in the
22 city?
23 A. Yes.

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- 1 Q. Is he employed?
2 A. I'm -- I'm not sure. I don't have much -- I
3 don't have any contact with him.
4 Q. And Mr. Brackin, is he employed?
5 A. Yes, he is.
6 Q. And where does he work?
7 A. City of Dothan.
8 Q. What does he do?
9 A. He is a firefighter.
10 Q. Firefighter?
11 A. Yes, ma'am.
12 Q. And how long has he been with the City of
13 Dothan?
14 A. Since August of '86. I believe that's right.

15 Q. Do you have any other relatives that live in
16 the city of Dothan or the southern part of
17 Alabama?

18 A. (Nods head in the affirmative.)

19 Q. How many? You're shaking your head yeah.

20 A. I have a huge family.

21 Q. The reason I ask, this is a -- you've asked
22 for a jury trial.

23 A. Right. Right.

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1 Q. And I'm entitled to know --

2 A. I have --

3 Q. -- relatives, so I'm trying to just --

4 A. Yes.

5 Q. Without being here all day --

6 A. I have three sisters and one brother that live
7 in Dothan.

8 Q. Are your parents living?

9 A. Just my mother. And my mother lives -- lives
10 here in Dothan, too.

11 Q. What's your mother's name?

12 A. Nell McKay Sizemore.

13 Q. Your father is deceased?

14 A. Yes, he is.

15 Q. And your sisters are?

16 A. Linda Collins.

17 Q. Where is she employed?

18 A. She's self-employed.

19 Q. With?

20 A. She does house cleaning.

21 Q. Okay. And your other sister?

22 A. Mona Moore.

23 Q. Is she employed?

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1 A. She is. She works at Budget cuts and also
2 Cloverdale United Methodist Church.

3 Q. In Montgomery?

4 A. No. In Dothan.

5 Q. That's in Dothan?

6 A. Montgomery has one, too.

7 Q. And do you have another sister?

8 A. Yeah. Debbie Batchelor.

9 Q. Is she employed?

10 A. Dothan Country Club in the golf shop.

11 Q. Did you say you have a brother?

12 A. I have a brother, Charles Sizemore, and he's

13 employed with Swedish Match.

14 Q. And what is that?

15 A. It's a cigar manufacturing company.

16 Q. And you say -- I take it you've got cousins,
17 aunts, uncles?

18 A. I've got several nieces and nephews, great
19 nieces, nephews.

20 Q. Anybody over the age of probably 18 or 19?

21 A. Oh, gosh. Yeah. Let's see.

22 Q. What I may ask you to do, if you could make a
23 list --

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1 A. If I could make a list of them. And that
2 way -- because there are several.

3 Q. Yeah. If you could make a list for me and
4 provide it to your attorney, just their
5 name -- by name, their relationship to you.
6 And, again, I'm only looking for somebody over
7 the age of 18, and just where they're
8 employed, if they're employed. And I think I
9 said how they are related to you.

10 A. Okay.

11 Q. For example, I take it, you've got
12 brothers-in-law and sisters-in-law?

13 A. In-laws included?

14 Q. In-laws included. I just don't want to put
15 your sister on the jury, you know.

16 Have you ever been arrested for anything?

17 A. No.

18 Q. Ever been convicted of anything?

19 A. Of a traffic ticket.

20 Q. What kind of traffic ticket?

21 A. Speeding.

22 Q. Was that here in the city of Dothan?

23 A. No, ma'am.

0021

1 Q. Where was that?

2 A. Montgomery.

3 Q. Have you ever filed for bankruptcy?

4 A. No, ma'am.

5 Q. Have you ever filed for unemployment
6 compensation?

7 A. Yes, ma'am.

8 Q. And how many times have you done that?

9 A. Let's see. Approximately three times in my
10 course of years of employment.

11 Q. Can you tell those?

12 A. I'm not --

13 Q. Which three times you remember, or roughly?

14 A. Roughly, of course, would be May of '05 when I

15 was discharged from the city of Dothan. And

16 approximately -- it was back in either the

17 late 80s or early 90s. I'm just not quite

18 sure of the year. Whenever --

19 Q. Before you started for Dothan?

20 A. Yes. But you're talking since?

21 Q. I'm talking about anytime.

22 A. Oh, anytime. And then September of '07.

23 Q. Which was just last month?

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1 A. Yes, ma'am.

2 Q. And, well, I'll ask you about that.

3 Apparently, you went on to another job and

4 then left that job. What job was that?

5 MR. JAFFREE: Excuse me. Went on

6 when?

7 Q. From the city of Dothan?

8 A. Yes.

9 Q. I'll ask you more about that later.

10 A. Okay.

11 Q. Have you ever filed bankruptcy?

12 A. No.

13 Q. Has your husband ever filed bankruptcy?

14 A. No.

15 Q. Have you ever been in the military?

16 A. No.

17 Q. Have you ever been known by any other name

18 than the name you've given me?

19 A. Well, Mary Monday from a previous marriage,

20 and then my maiden name is Sizemore.

21 Q. Are you member of any type of social club or

22 civic organization?

23 A. I am a member of the Daughters of the Nile

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1 Club here in Dothan. It's a part of the

2 Masonic organization.

3 Q. Daughters of the Nile?

4 A. Yes, ma'am.

5 Q. And how long have you been a member of that?

6 A. Couple of years.

7 Q. I'm somewhat --

8 A. Maybe more. I'm sorry.

9 Q. -- familiar with the Masons, but is this like
10 a group of women?

11 A. Yes, ma'am, it is.

12 Q. And what is your mission or purpose, or do you
13 do fundraisers or what?

14 A. Yes. We raise money for the Children's
15 Hospital for the Shriners Hospital, that sort
16 of thing.

17 Q. Any other type of civic activities?

18 A. No, ma'am.

19 Q. Your children. I guess Michael is grown.
20 Matthew, where does he go to school?

21 A. Wicksburg High School.

22 Q. And where is that? Is that a city?

23 A. It is -- no, ma'am. It's a Dothan address,

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1 but it's a county school. It's not a city
2 school, but it's in Houston County.

3 Q. Does he play ball or sports or anything?

4 A. Yes.

5 Q. Which sports does he play?

6 A. Football. Are you talking about for the
7 school?

8 Q. Yeah.

9 A. Or --

10 Q. Just school.

11 A. Okay. Well, he started this school year, so
12 he doesn't play any right now.

13 Q. Do you belong to a church?

14 A. Yes, I do.

15 Q. And what's the name of your church?

16 A. Lafayette Street United Methodist Church.

17 Q. And how long have you been going there?

18 A. Since 1988.

19 Q. Other than this lawsuit that you've filed
20 against the city of Dothan and Judge Gordon,
21 have you been involved as a named party or
22 plaintiff in any other lawsuit?

23 A. No, ma'am.

0025

1 MR. JAFFREE: Let me ask if you
2 could rephrase the question to
3 include lawsuits against the
4 city of Dothan because her
5 response is incorrect as given
6 since there was a administrative

7 lawsuit.

8 MS. NELSON: Well, I will follow up.

9 Q. You're talking about the appeals hearing or
10 the --

11 A. Oh, yes.

12 THE WITNESS: Is that --

13 MR. JAFFREE: Well --

14 A. I'm not understanding the question.

15 Q. Well, I mean, I'm just talking about -- I'm
16 just asking best you understand, have you
17 ever -- you filed also an appeal hearing with
18 the City; is that correct?

19 A. Yes.

20 Q. And then did you -- you appeared before the
21 Personnel Board contesting your termination
22 from the city of Dothan; is that correct?

23 A. Correct.

0026

1 Q. And you've also filed an appeal to the Circuit
2 Court of Houston County; is that correct?

3 A. Yes, ma'am.

4 Q. And that went all the way up to the Court of
5 Civil Appeals; is that correct?

6 A. That's correct.

7 Q. And the Court of Civil Appeals ultimately
8 upheld your termination; is that correct?

9 Okay.

10 A. Well --

11 Q. Well, strike that. You look puzzled. The
12 Court of Civil Appeals' decision, I noticed
13 you had that in your notebook.

14 Do you understand what they decided about
15 your case?

16 A. Yes.

17 Q. And what was that?

18 A. They overturned Judge White's decision from
19 the circuit court level and remanded it back
20 to the Personnel Board.

21 Q. And that's your understanding of that; is that
22 correct?

23 A. That's --

0027

1 Q. And the Personnel Board then upheld your
2 termination?

3 A. Yes.

4 Q. Is that correct?

5 A. Yes, they did.
6 Q. And did you take any further action in that
7 matter before the Personnel Board, up through
8 the Court of Civil Appeals, back down to Judge
9 White, and back to the Personnel Board?
10 Bottom line, your termination stood through
11 that process; is that correct?

12 You're looking at your lawyer.

13 A. Well, I'm just -- I guess --

14 Q. You can answer me if you understand.

15 A. Okay.

16 Q. You filed with the Personnel Board --

17 A. Correct.

18 Q. -- and contested your termination. The
19 Personnel Board upheld your termination; is
20 that correct?

21 A. Correct.

22 Q. You then filed a lawsuit or appealed that to
23 the Houston County Circuit Court?

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1 A. Correct.

2 Q. And Judge White was your judge?

3 A. Yes, he was.

4 Q. And what did you understand Judge White did?

5 A. Judge White overturned the personnel board's
6 decision and directed me back at my job and
7 back pay.

8 Q. And then Judge White's decision was appealed
9 to the Alabama Court of Civil Appeals; is that
10 correct?

11 A. Yes, ma'am.

12 Q. And I'm probably confusing this. And then the
13 Court of Civil Appeals overturned Judge White;
14 is that correct?

15 A. I believe that's correct. They -- they
16 remanded it back to the Personnel Board
17 because there were things in there that should
18 not have been considered in the beginning. So
19 they remanded it back to the Personnel Board
20 to -- to do -- to base it solely on this.

21 Q. And that was based on whether a certain
22 discipline had -- the underlying action had
23 occurred within a two-year period of your

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1 termination?

2 I mean, do you understand what I'm talking

3 about?

4 A. Yeah.

5 MR. JAFFREE: Well, you're asking
6 her a legal conclusion. And the
7 decision requires some
8 sophistication that she may not
9 can articulate.

10 MS. NELSON: I'm just trying to get
11 her understanding of it.

12 Q. So it was remanded to the Personnel Board; is
13 that correct?

14 A. Yes.

15 Q. And the Personnel Board upheld your
16 termination; is that correct?

17 A. Yes, that's correct.

18 Q. So we've talked about that.

19 A. Okay.

20 Q. If you want to call it, that lawsuit. The
21 current lawsuit that I'm asking you questions
22 about that's in federal court --

23 A. Correct.

0030

1 Q. -- had you filed any other -- one other
2 thing: You filed an EEOC charge against the
3 city of Dothan?

4 A. Yes.

5 Q. Are you aware of that?

6 A. Yes.

7 Q. Besides --

8 A. I'm sorry.

9 Q. -- any of that, have you filed any other
10 lawsuits where you were named a plaintiff or a
11 named party?

12 A. No.

13 Q. Now, we've talked about your divorce. I mean,
14 that was a legal procedure.

15 A. Right. Yes. But when you --

16 Q. No other lawsuits that you're aware of that
17 you've been involved in?

18 A. No, ma'am, not -- no, ma'am.

19 Q. Have you ever been sued in a lawsuit where you
20 were named a defendant?

21 A. No.

22 Q. Automobile wreck or traffic incident, anything
23 like that?

0031

1 A. No. No, I haven't. No. No, ma'am.

2 Q. Has a member of your family been sued?

3 A. Not to my knowledge. I don't -- I don't

4 know. I mean, I can't speak for my -- my

5 family. I don't know.

6 Q. Well, I meant, your immediate family, your

7 husband.

8 A. I mean, not my husband. No.

9 Q. Has your husband ever been a plaintiff in a

10 lawsuit?

11 A. No, ma'am, not to my knowledge.

12 Q. Have you ever given testimony besides your

13 Personnel Board hearing? Have you ever given

14 testimony in a lawsuit?

15 A. Lawsuit? No, ma'am.

16 Q. Have you ever had your deposition taken like

17 this before where a lawyer is asking you

18 questions about a lawsuit?

19 A. Other than my appeal hearing?

20 Q. Yes, other than your appeal hearing.

21 A. Other than that appeal hearing. No, not an

22 attorney, no.

23 Q. When you say "not an attorney," who --

0032

1 A. Well, you were asking me if -- if an -- based

2 on an attorney asked questions. So I said,

3 no.

4 Q. In a lawsuit?

5 A. I'm just making sure that I'm understanding.

6 Q. Well, have you ever given sworn testimony

7 before?

8 A. Yes.

9 Q. And where have you done that?

10 A. I was actually a -- in my magistrate capacity

11 years ago when I issued a contempt complaint

12 for the judge. But it was not Judge Gordon.

13 I had to, you know, testify to that, that

14 person did not show up in court. And I have

15 sworn statements to the police department.

16 Q. And those sworn statements would be regard to

17 what?

18 A. In regards to some internal investigations

19 that were -- that -- that involved myself that

20 I had to give. They asked me questions, and I

21 gave them answers to that. But it was taped

22 and --

23 Q. Were you under oath; is that your
0033

1 understanding?

2 A. I'm not sure if I was under oath. I do know
3 that I had to sign documentation to the effect
4 that, you know, if -- you know, if you lie or
5 whatever, you know, that's an ethics violation
6 to that sort or -- I'm not sure if I was
7 placed under oath.

8 Q. And this was done, you said, an internal
9 investigation. Are you familiar with the
10 Internal Affairs?

11 A. Yes.

12 Q. And Internal Affairs is a part of the police
13 department?

14 A. Of the Dothan Police Department.

15 Q. And you've worked in the police department,
16 haven't you?

17 A. Yes.

18 Q. What is your understanding of what Internal
19 Affairs does?

20 A. I did not work in that division, so I'm not
21 sure as far as what their actual job duties
22 are or when --

23 Q. You're not --

0034

1 A. I was not affiliated with that section.

2 Q. So you don't really know how they function?

3 A. No, ma'am.

4 Q. Or when they might do an investigation?

5 A. No, ma'am.

6 Q. I believe I asked you this: Have you ever
7 filed an EEOC charge against anyone else
8 besides the city of Dothan?

9 A. No, ma'am.

10 Q. Now, did you grow up in this area?

11 A. Yes, I did.

12 Q. Where were you born?

13 A. Ft. Benning, Georgia.

14 Q. And how long have you lived in the Dothan
15 area?

16 A. Approximately 35, 36 years.

17 Q. Did you go to high school in this area?

18 A. I did.

19 Q. Where?

20 A. Rehobeth High School.

21 Q. And Rehobeth is where?

22 A. It is -- it's Houston County. It's a county
23 school. It's not inside the city limits, but

0035

1 it does have a Dothan mailing address.

2 Q. And Rehobeth High, is that where you --
3 Rehobeth High School?

4 A. Yes.

5 Q. And following your -- you graduated; is that
6 correct?

7 A. Yes.

8 Q. And following graduation, did you have an
9 opportunity to take any other educational
10 courses or whether college or vocational
11 school or junior college or anything like
12 that?

13 A. Yes.

14 Q. And where was that?

15 A. I attended Riley Business College and their
16 computer program.

17 Q. And when was that?

18 A. Approximately '88, '89.

19 Q. Did you get a degree of any sort?

20 A. Just a Certificate of Completion.

21 Q. And then following Riley Business College, any
22 other educational training?

23 A. I was -- became a certified magistrate in June

0036

1 of '97.

2 Q. And tell me what was involved in becoming a
3 certified magistrate?

4 A. You attended four orientations on a day basis
5 up in Montgomery; and then after you completed
6 those and a test was involved, then you would
7 attend approximately four sessions at the
8 University of Alabama in Tuscaloosa at their
9 Continuing Education Building.

10 Q. And how long did it take you to get this
11 certification?

12 A. You have to do it in three years. I started
13 in May of '92, but I didn't actually start
14 going to some classes until after that. But
15 it's -- at that time, they actually -- I
16 believe you had four years to complete it.
17 I'm not sure. It's change.

18 Q. And does the City require this, or is this a

19 state law requirement?

20 A. It is a state. I mean, it's -- it's four.

21 You have to be a -- you have to be certified.

22 Yes.

23 Q. To hold the magistrate's position?

0037

1 A. Yes. The capacity.

2 Q. And do you know who did the training?

3 A. Different -- we had judges. We had court
4 clerks. We had Eric Locke who's a staff
5 attorney at AOC.

6 Q. That's Administrative Office of Courts?

7 A. Yes, ma'am.

8 Q. Did you receive any type of materials or
9 training materials or notebooks?

10 A. Yes.

11 Q. Do you still have those, or were they kept in
12 the magistrate's office?

13 A. I don't -- I don't think I took -- I may have
14 some, but it was just over previous years.

15 Q. Did the city of Dothan pay for that training?

16 A. Yes.

17 Q. And to your knowledge, are all the magistrates
18 required to be certified?

19 A. To my knowledge.

20 Q. And other than that training, any other type
21 of vocational, college, education?

22 A. Well, during my years with the City, they
23 would send us to computer classes that would

0038

1 include Microsoft Word or Power Point, Excel,
2 that sort of thing. But I don't recall the
3 dates or exactly when those happened.

4 Q. Now, what was the first -- after you graduated
5 from high school, what was the first
6 full-time job that you held?

7 A. Let's see. Oh, I was employed with -- at
8 time, it was called General Cigar Company, but
9 it's now Swedish Match.

10 Q. That's where your brother-in-law works?

11 A. My brother.

12 Q. Or your brother. And what was your job there?

13 A. I don't -- I don't remember what my actual
14 title was. I -- I worked in different areas.

15 I worked, actually, in the final end of
16 production, and then I was in an office

17 setting.

18 Q. How long did you work there?

19 A. Approximately, maybe to '88 or '89. I'm not
20 sure.

21 Q. When did you start?

22 A. I started, actually, full-time when I
23 graduated high school, but I actually had

0039

1 worked there during the summer, between my
2 junior and senior year in high school.

3 Q. And why did you leave there?

4 A. I got promoted -- well, it was a
5 promotion-type position with Riley College in
6 their accounting office.

7 Q. What was your job for Riley College?

8 A. I worked in accounts payable.

9 Q. Where is this located? Is this in Dothan?

10 A. Yes, ma'am. But they're no longer in
11 business. It's -- it -- their main office was
12 on Montgomery Highway.

13 Q. And why did you leave there?

14 A. I was laid off. They were cutting back due to
15 the budget.

16 Q. Who was your supervisor?

17 A. Oh, goodness. I can't remember my initial
18 supervisor that worked in the office with me.
19 I know that Peggy Rice was over, like,
20 the -- the administrative personnel.

21 Q. After you left Riley Business College, where
22 did you go to work?

23 A. Automated Control Systems. It's an

0040

1 engineering company.

2 Q. And what was your job there?

3 A. Office manager.

4 Q. And how long did you work there?

5 A. Approximately, a year maybe. I'm not sure.

6 Q. And why did you leave there?

7 A. They were cutting back to part-time, and I
8 needed full-time employment.

9 Q. Do you remember who your supervisor was there?

10 A. Gary McGowan.

11 Q. Did you ever work for a company called Whatley
12 White?

13 A. Yes.

14 Q. What did they do?

15 A. It's a trucking company.
16 Q. And what was your job there?
17 A. Accounts payable, I believe.
18 Q. And do you remember who your supervisor was?
19 A. Melissa. I'm not sure of her last name, but I
20 was -- my office was actually at Wallace
21 Supply Company. But it was owned by the same
22 individual, both businesses.
23 Q. Whatley Supply?

0041

1 A. Yes.
2 Q. Why did you leave there?
3 A. The company went out of business. They filed
4 Chapter 13 I believe.
5 Q. After you left Automated Controls --
6 A. Yes.
7 Q. -- where did you go to work?
8 A. I don't know -- I'm not sure if it was with
9 the city of Dothan at that point. I'm not
10 sure. I believe it was, but I can't --
11 without looking at --
12 Q. Sure.
13 A. -- some of my prior records, I'm not sure.
14 Q. Are you currently?
15 A. No, ma'am.
16 Q. And where were you last employed?
17 A. The Town of Newton.
18 Q. And what was job there?
19 A. Court clerk.
20 Q. And how long did you work there?
21 A. From approximately March of '06 to September
22 of '07.
23 Q. And why did you leave there?

0042

1 A. Laid off due to budget cuts. The city clerk
2 is doing her position plus the court clerk's
3 position.
4 Q. Who was your supervisor there?
5 A. Jean Watson.
6 Q. Is she the court clerk?
7 A. She says the mayor.
8 Q. Excuse me. The mayor?
9 A. Yes.
10 Q. Jean Watson? Okay. And who's the city clerk?
11 Did you report to the city clerk?
12 A. No. I actually -- well, our municipal judge

13 was part-time. But, mainly, I reported to
14 Jean.

15 Q. Okay. So it was after you left your job from
16 this Town of Newton that you filed for
17 unemployment compensation that I asked you
18 about the three --

19 A. Yes.

20 Q. You told me it was three times?

21 A. Yes.

22 Q. This was one of the --

23 A. This was one.

0043

1 Q. -- times when you filed?

2 A. Yes.

3 Q. Prior to the Town of Newton, were you
4 employed?

5 A. With the City of Headland.

6 Q. And what was your job with the City of
7 Headland?

8 A. Same, court clerk/magistrate.

9 Q. And who was your supervisor?

10 A. Mayor Rueben Shelley. I actually reported
11 more at that position to the municipal judge,
12 was Chris Capps. He was pretty involved.

13 Q. And why did you leave that job?

14 A. Both Headland and Newton were both part-time
15 positions, and I was moving. Newton, their
16 hours needed to upped to more hours, so I left
17 Headland. Newton was closer to home where I
18 was moving to. So I went to work for Newton
19 because it was going -- at that point, it was
20 going to either three or four days a week.
21 I'm not sure.

22 Q. I'm a little confused. You said you were
23 moving. Were you moving addresses, or you're

0044

1 just --

2 A. Yes.

3 Q. You've recently moved?

4 A. Well, I've been in my home now for
5 approximately a year. Right.

6 Q. And just to clarify to me, I know -- you moved
7 from where to where in this past year?

8 A. We were living with my mother-in-law while the
9 house was being built, so I moved from there.

10 Q. "There" being? Where does your mother-in-law

11 live?

12 A. 2102 Hardwick Drive here in Dothan.

13 Q. In Dothan?

14 A. Yes.

15 Q. Y'all were living with her, and you were
16 building as house?

17 A. Yes.

18 Q. And your new house is where?

19 A. 695 Sandstone.

20 Q. In Dothan?

21 A. Yes.

22 Q. And you're saying Newton was closer?

23 A. Newton was closer to driver than to Headland,
0045

1 and my hours -- Newton's hours were moved up.

2 Q. Moved up to what it's?

3 A. At first, they were -- I was only working
4 there two days a week.

5 Q. And then that changed to?

6 A. That changed to three days a week.

7 Q. But then they totally laid you off?

8 A. After -- after -- then I was -- I was going --
9 I was moving to fives days a week. When that
10 job was opening up, the municipal judge at
11 that time, that asked me to come work there,
12 was advising me that that court would be
13 full-time. They were hoping that would be a
14 full-time court soon.

15 Q. Okay.

16 A. So that did not happen, which that municipal
17 judge is no longer there. They've had another
18 municipal judge come in.

19 Q. But is there someone doing the magistrate
20 work?

21 A. Yes. That's the city clerk. She's doing that
22 now.

23 Q. There's no part-time magistrate?
0046

1 A. No. She actually -- she is a full-time
2 employee with Newton, so she is doing both
3 positions.

4 Q. But if they were looking to go from a
5 two-to-three-day-a-week magistrate to a
6 full-time magistrate, I'm still confused as to
7 how you came to be laid off.

8 A. I -- they -- it did not go to full-time. I

9 guess with them being a small town, you know,
10 I was making good money. So they just felt
11 like they needed to try to cut back. So --
12 Q. Were you ever disciplined in any way while you
13 were at Newton?
14 A. No. I mean, what do you mean "disciplined?"
15 Q. I mean, for either your performance or
16 committing some work-rule violation?
17 A. No.
18 Q. Reprimanded?
19 I mean, you're looking at me like --
20 A. Well, I'm just try to figure out what you're
21 talking -- what are you actually talking
22 about? Written, as far as written up, that
23 sort of thing?

0047

1 Q. Well, written up, verbal, talked to about your
2 job performance, or if you weren't getting the
3 job done. Did that have any bearing on your
4 leaving the Town of Newton?
5 A. The only thing I was told was that I was laid
6 off due to budget cuts, that the city clerk
7 would be doing both positions.
8 Q. Had you been given any type of verbal
9 reprimand or discipline?
10 A. The only thing, the mayor at some point in
11 time had asked me exactly what a court --
12 excuse me -- court clerk responsibilities are
13 because she was a part-time mayor. She was
14 not familiar with exactly the full scope of a
15 magistrate and a court clerk. So I explained
16 that to her.
17 And then she just -- she had a issue with
18 me making more money than the police chief
19 did, but that was, you know -- that was all
20 that was discussed verbally. But nothing
21 about my -- you know, me not doing my job.
22 Q. It's your understanding that in your part-time
23 position, you made more money than the police

0048

1 chief of the City of Newton?
2 A. I did not know that when I was initially
3 hired, but she had brought that to my
4 attention.
5 Q. What about the City of Headland; were you ever
6 disciplined, reprimanded, verbally or written?

7 A. No.

8 Q. Did you ever work for the City of Headland and
9 the City of Newton at the same time?

10 A. Yes. Yes. They were both part-time
11 positions.

12 Q. And I believe you've provided me some -- your
13 tax returns?

14 MR. JAFFREE: I didn't get a copy of
15 stuff.

16 THE WITNESS: I didn't make you a
17 copy of --

18 MR. JAFFREE: No, no, no. She had
19 asked.

20 Q. Were you paid hourly for the City of Newton?

21 A. Yes.

22 Q. You were paid hourly for the City of Headland?

23 A. Yes.

0049

1 Q. Combined, the two jobs -- let me back up.

2 You worked for City of Headland for what
3 period of time?

4 A. October of '05 to approximately November of
5 '06.

6 Q. And what about the Town of Newton?

7 A. I think I -- March of '06 to September of '07.

8 Q. I'm sorry.

9 A. Yes.

10 Q. And what was your hourly rate of pay at the
11 City of Headland?

12 A. Fourteen-fifty an hour.

13 Q. About how many hours a week were you working
14 there?

15 A. Twenty-one.

16 Q. What was your hourly pay at the city -- you
17 call it the Town of Newton?

18 A. Yes. It's small.

19 It was \$15 an hour.

20 Q. And how many hours were you working there?

21 A. To begin with, 16, and then it went up to 24.

22 Q. And these earnings would be reflected in the
23 tax returns that you've--

0050

1 A. Yes, ma'am.

2 Q. -- provided to me?

3 A. Those that I could find.

4 Q. And you've been unemployed since September; is

5 that correct?

6 A. September 13th.

7 Q. Are you seeking employment?

8 A. Yes, I am.

9 Q. And are you seeking employment in this field
10 of a municipal employee or being a magistrate?

11 A. If the position comes available, but I have
12 applied for a lot of things that I'm qualified
13 for.

14 Q. Where have you applied?

15 A. I've applied for -- I've gotten on the list
16 for state jobs, for City of Enterprise, city
17 of Dothan School System. I'm trying to think
18 of some other none-government places. I'm not
19 sure of the some of the other that -- but
20 I've -- I have applied for several state jobs
21 that I have taken tests for. And I'm on the
22 list.

23 Q. Would these be here in Dothan?

0051

1 A. Yes. Or surrounding. For the state jobs, you
2 put surrounding counties, too, that you'd be
3 willing to work in. So --

4 Q. I'm going to show you what I've marked as
5 Defendants' Exhibit Number 2 which appears to
6 be a resume' prepared by you.

7 (Defendants' Exhibit Number 2 was
8 marked for identification.)

9 Q. Have you had a chance to look at it? Does
10 that appear to be your resume', Ms. Brackin?

11 A. Yes.

12 Q. And that goes through a period of time for
13 when you worked for Automated Control System;
14 is that correct?

15 A. Yes.

16 Q. Best of your knowledge, does that accurately
17 reflect the jobs that you held --

18 A. Yes, if the -- yes.

19 Q. -- up until that time which appears
20 to be -- to your knowledge, was that the
21 resume' you provided when you interviewed with
22 the city of Dothan?

23 A. I'm -- to the best of my knowledge.

0052

1 Q. After Automated Control, I believe you
2 testified that you thought you went to work

3 for the city of Dothan?

4 A. Yes.

5 Q. Do you remember filling out an application at
6 the City?

7 A. I'm sure I did. It was required.

8 Q. Do you remember what job you were seeking?

9 A. Magistrate, if I'm correct.

10 Q. Do you remember who you interviewed with?

11 A. Gayle Schwarz.

12 Q. Who is Gayle Schwarz?

13 A. She was the court clerk at the time.

14 Q. Let me show you what I'll marked as
15 Defendants' Exhibit 3 which is an application
16 for the city of Dothan. If you'd take a
17 minute just to look at that.

18 (Defendants' Exhibit 3 was marked
19 for identification.)

20 (Brief pause)

21 Q. Ms. Brackin, that Exhibit 3, is that your
22 application --

23 A. Yes.

0053

1 Q. -- to the city of Dothan?

2 A. Yes.

3 Q. Do you recall when you first started working
4 there, what year that was?

5 A. May of '92.

6 Q. And do you know how you came to apply for a
7 job with the city of Dothan?

8 A. I -- there was an opening, or it was announced
9 or -- I'm not sure. So it must have been a
10 job that was posted. I don't recall now.

11 Q. Was your husband working at the time --

12 A. Yes.

13 Q. -- at the city of Dothan?

14 A. Uh-huh (positive response).

15 Q. In the fire department?

16 A. Yes.

17 Q. Has he always worked in the fire department?

18 A. Yes.

19 Q. I may have asked you this: What is his rank?

20 A. He's a fire sergeant.

21 Q. Sergeant?

22 A. Sergeant.

23 Q. And then you said you interviewed with Gayle

0054

1 Schwarz?

2 A. To the best of my knowledge. I know she was
3 my supervisor, so I'm -- I'm just not sure. I
4 don't remember back that far.

5 Q. You were hired; is that correct?

6 A. Yes.

7 Q. And how many other magistrates were there at
8 that time?

9 A. There was Shirley Thomas and Kevin Sorrells.
10 And then Gayle, of course, was a
11 magistrate/court clerk.

12 Q. Was there a municipal court judge at that
13 time?

14 A. We had two part-time judges.

15 Q. Do you remember who they where?

16 A. Mike Brown and Doug Bates.

17 Q. You say "part-time." Did they do other
18 things?

19 A. They were -- they had their own --

20 Q. Did they practice law?

21 A. Yes, ma'am.

22 Q. Did they practice law?

23 A. Yes, sir.

0055

1 Q. Doug Brown?

2 A. Doug Bates.

3 Q. Bates and --

4 A. And Mike Brown.

5 Q. Mike Brown.

6 A. Mike Brown was the presiding judge.

7 Q. Do you know if you've ever -- at that point,
8 did you receive training, or was it on-the-job
9 training to be a magistrate?

10 A. It was basically on-the-job training.

11 Q. Do you when you started your training through
12 the -- to get your certificate that we talked
13 about earlier?

14 A. No, I don't recall the first actual time I
15 started going.

16 Q. To you remember being given an employee
17 handbook of employee rules and regulations?

18 A. I don't recall at that point. No.

19 (Defendants' Exhibit 4 was marked
20 for identification.)

21 Q. Do you ever recall being given one? I'll show
22 you what I've marked as Defendants' Exhibit 4.

23 Is that your signature?

0056

1 A. Yes.

2 Q. This says, you received a copy of the
3 handbook?

4 A. Yes.

5 Q. Does that refresh your memory?

6 A. Yes. Well, I'm -- I'm sure, you know, I
7 received it if I signed that.

8 Q. Are you aware that the City has policies and
9 procedures dealing with like, for example,
10 drug testing?

11 A. Yes.

12 Q. Do you recall receiving --

13 A. Yes.

14 Q. -- that?

15 (Defendants' Exhibit 5 was marked
16 for identification.)

17 Q. And I'll show you Defendants' Exhibit 5.

18 Is that your signature?

19 A. Yes, it is.

20 Q. And that certifies that you have received a
21 copy of the City's Drug Testing Procedures?

22 A. Correct.

23 Q. Have you ever been drug tested?

0057

1 A. With my initial employment, I believe, with
2 the City I was. Yes.

3 Q. Not since then?

4 A. But not -- no, ma'am.

5 MR. JAFFREE: Let me stop. One of
6 those documents from '92; the
7 other one is from '96. Your
8 question suggests that she
9 received both of those documents
10 at.

11 MS. NELSON: My question doesn't
12 reflect anything like that. I
13 mean, you can ask the questions.
14 I'm just asking her to identify
15 a document. I mean, they speak
16 for themselves.

17 MR. JAFFREE: I think the tenure of
18 your question suggests that got
19 both of those documents when she
20 became employed.

21 MS. NELSON: You can refer that if
22 you want.

23 Q. You said you first reported to Gayle Schwarz;
0058

1 is that correct?

2 A. Yes.

3 Q. What how long did you report to her?

4 A. I was in that division until, approximately, I
5 believe August of '95.

6 Q. And what position was that?

7 A. That I was in prior to that or after?

8 Q. Yeah. You said you were in that position till
9 August.

10 A. In that division. I was in that division
11 until August of '95.

12 Q. What division was that? That's what I'm
13 trying to get an understanding.

14 A. Well, it's -- we were under the -- we worked
15 under the city manager at that time, but we
16 were Municipal Court. We did not have our
17 own.

18 Q. Your own what?

19 A. Like they do now. The Judicial Department has
20 their own department. At that particular
21 time, we were listed as administrative up
22 under the city manager.

23 Q. Okay. And you said that was until August of
0059

1 '95.

2 A. Yes, ma'am.

3 Q. What happened in August of '95?

4 A. I went to work as a secretary with the Dothan
5 Police Department.

6 Q. Let me back up. What were your duties from
7 '92 to '95 when you worked under Gayle
8 Schwarz?

9 A. Magistrate.

10 Q. I know. Give me some idea of what you did.

11 A. That encompasses swearing the officers to
12 traffic tickets and on the arrest -- issuing
13 warrants of arrest on complaints by civilians
14 and officers, taking in moneys for fines and
15 costs, working in the courtroom, working in
16 the fines room, accepting bonds, approving
17 bonds, issuing subpoenas?

18 Q. How often was court held when there were the

19 two part-time judges?

20 A. Let's see. We had Monday, Tuesday, and
21 Thursday.

22 Q. Were you ever evaluated while you were
23 under -- like get an employee evaluation by
0060

1 Gayle Schwarz?

2 A. Yes. If it. I'm not sure if she did them or
3 Judge Brown did them at the time. I'm not
4 sure.

5 Q. Did you consider yourself reporting to Gayle
6 Schwarz or to Judge Brown?

7 A. Gayle Schwarz was our immediate supervisor.
8 (Brief pause)
9 (Defendants' Exhibit 6 was marked
10 for identification.)

11 Q. I'm going to show you what I've marked as
12 Defendants' Exhibit 6, Ms. Brackin. This is a
13 performance evaluation.

14 Is that the evaluation you received --

15 A. Yes.

16 Q. -- from Gayle Schwarz?

17 A. Yes.

18 Q. Do you have any reason to question anything
19 that she put in that evaluation?

20 MR. JAFFREE: Before you answer
21 that, you need to examine
22 everything in there, in detail.

23 Q. Did you have a chance to make a comment on
0061

1 that evaluation?

2 A. Yes.

3 Q. And what was your comment?

4 A. "Concur."

5 Q. Concur?

6 A. Concur. Uh-huh (positive response).

7 MR. JAFFREE: So she doesn't have to
8 answer the prior question?

9 MS. NELSON: Well, she can if she
10 wants to.

11 MR. JAFFREE: So are you still
12 expecting her to answer, or are
13 you satisfied with the concur?

14 MS. NELSON: Well, I'm satisfied
15 with the concur. I'm just
16 trying to move along here.

17 Q. Were you generally evaluated annually each
18 year?

19 A. After -- I think when you're on probation,
20 it's -- you get evaluated more. But after
21 you're off probation, I think it's once a
22 year. I'm not sure.

23 Q. And this was done in April of 1993; is that
0062

1 correct?

2 A. Right.

3 (Defendants' Exhibit 7 was marked
4 for identification.)

5 Q. And then let me show you one that you were
6 evaluated in about April -- well, looks like
7 May of 1994. That's Defendants' Exhibit 7.
8 Just a take a minute to look at that.

9 (Brief pause)

10 Q. That is your 1994 evaluation; is that correct?

11 A. Yes.

12 Q. Did you make a comment on that one?

13 A. Yes.

14 Q. And your comment was?

15 A. "Concur."

16 (Defendants' Exhibit 8 was marked
17 for identification.)

18 Q. And I'm going to show you what appears to be
19 your May of 1995 evaluation, which is
20 Defendants' Exhibit Number 8. Take a moment
21 to look at that.

22 (Brief pause)

23 Q. Is that your May of 1995 evaluation?

0063

1 A. Yes.

2 Q. Did you have an opportunity to make a comment
3 there?

4 A. Yes.

5 Q. And what was your comment?

6 A. "Concur."

7 Q. Those were fill out by whom?

8 A. The evaluation?

9 Q. Yes. I'm sorry. Who completed the
10 evaluation?

11 A. Gayle. It was Gayle Kellenberger, but it was
12 the same -- she was married at that time.

13 Q. Did Gayle ever speak to you about problems
14 that you had communicating with the public and

15 other employees?

16 A. The -- what was written in there. You know,
17 she went over the evaluation with me.

18 Q. Okay. She states here that "she" -- and she's
19 referring to you -- "is currently showing some
20 problems in the area of communication with the
21 public and other employees along with a
22 sometime poor attitude."

23 MR. JAFFREE: Is that a question or
0064

1 is that a statement?

2 MS. NELSON: That's a quote from
3 Gayle, her supervisor.

4 Q. I'm saying, did she discuss that with you?

5 A. She went over the evaluation with me. I don't
6 recall everything that was said in May of
7 '95. But I mean, if it's -- you know, she
8 went over that with me.

9 Q. And then she -- I'm quoting. "I feel that
10 this is an area that needs to be worked on
11 before a major complaint is received."

12 Do you remember her mentioning that you
13 to?

14 A. I don't recall.

15 Q. Do you remember any complaints at that time
16 that had been made about you?

17 A. No.

18 Q. Do you remember any employees that you were
19 having difficulty in communicating with or
20 getting along with?

21 A. No.

22 Q. Do you remember having any complaints from the
23 public or attorneys or anybody in the

0065
1 courtroom, attending municipal court, that had
2 complaints about you?

3 A. No.

4 Q. Do you know what she was referring when she
5 said that you sometimes had a poor attitude?

6 A. No.

7 Q. Now, I believe you testified earlier that it
8 was in about '95 that you went to the police
9 department?

10 A. Yes, ma'am.

11 Q. Tell me the circumstances that you went to the
12 police department to work.

13 A. Well, I had a -- a small child. And we were
14 on call at that time. Gayle was on call
15 during the week, and we would rotate
16 weekends. And since there was few of us, that
17 meant our call was -- was quite often. And
18 then our call went to where Gayle wasn't going
19 to be on call, so we had to be on call a week
20 at the time. And with my --

21 Q. Let me stop you and make sure. I'm just
22 trying to understand.

23 It was you and Gayle, and who were the

0066

1 other magistrates in the office?

2 A. Kevin and then in '95 at this point it was
3 Mary Turner.

4 Q. Kevin Sorrell?

5 A. Kevin Sorrells.

6 Q. Sorrells?

7 A. Yes.

8 Q. And did all four of y'all rotate this call?

9 A. We did, but it got to where Gayle would take
10 it during the week. But then she got to where
11 she didn't take it at all. So it was left
12 up -- oh, and Shirley. I think Shirley Thomas
13 was still there. I know that she retired, but
14 I'm not sure what year she retired in. I'm
15 not sure.

16 Q. Okay. But did Kevin Sorrells, Mary Turner,
17 and Shirley take call also?

18 A. Yes.

19 Q. Anyway, you were telling me why you wanted to
20 go to the police department.

21 A. And my husband is a shift worker. He's on 24
22 and off 48. So it was -- with a small child,
23 it was just hard to be on call. So it would

0067

1 be to where I'd have to go spend the night
2 with my in-law in case I would get called out
3 because I couldn't take the baby with me. So
4 it was just better for me to go to where I was
5 eight to five. You know, if I worked court,
6 it would be to where sometimes I wouldn't get
7 out of there until six or seven at night.

8 Q. Okay.

9 A. So for my situation at the time with my
10 family, it was better for me to do that.

11 Q. Back to what I was asking you about earlier,
12 the comments and evaluations, were some of the
13 communication issues or attitudes issues with
14 other employees. Did you and Kevin Sorrells
15 have any disagreements or inability to get
16 along?

17 A. No.

18 Q. Did you and Mary Turner have disagreements or
19 inability to get along?

20 A. No.

21 Q. You mentioned Shirley Thomas?

22 A. Uh-huh (positive response).

23 Q. Did you and Shirley Thomas have any

0068

1 disagreements or --

2 A. No.

3 Q. -- inability to get along?

4 A. No.

5 Q. What about you and Gayle?

6 A. No, not to my knowledge.

7 Q. Do you know if Kevin Sorrells ever made any
8 complaints about you?

9 A. Not to my knowledge. I don't know.

10 MR. JAFFREE: Let me --

11 MS. NELSON: You can state your
12 objection. I have a right to
13 question her.

14 MR. JAFFREE: Well, I understand
15 that, but your questions are not
16 specific as to time, place, or
17 circumstances.

18 MS. NELSON: I'm talking about in --

19 MR. JAFFREE: The rest of the world
20 or just --

21 MS. NELSON: I'm talking about
22 within 1995, the time frame that
23 she was noted in her evaluation

0069

1 as having some issues with her
2 employees.

3 MR. JAFFREE: I'm not sure you made
4 that clear.

5 MS. NELSON: I think I did. But
6 thank you. I'll try to do that
7 in the future.

8 Q. I'm talking about around the 1995 time frame

9 when, in Exhibit 18, your supervisor Gayle
10 Schwarz had indicated some issues that are
11 written here in your evaluation. That's the
12 time frame I'm talking about.

13 To your knowledge, were you and Kevin
14 Sorrells friends?

15 A. We worked together. We were co-workers. I
16 mean, yes, we --

17 Q. Did you know him outside of the work force?

18 A. As far as doing things? Is that what you're
19 talking about?

20 Q. Yeah.

21 A. I mean, I knew him outside the workforce.

22 But, I mean, did we?

23 Q. Did y'all socialize; did y'all go to church

0070

1 together?

2 A. No. No.

3 Q. What about Mary Turner; did and you Mary get
4 along? Were y'all -- any reason that she
5 would have complained about you?

6 A. Not to my knowledge. I don't --

7 Q. Were y'all friends?

8 A. Yes.

9 Q. Were you friends outside of the work place?

10 A. Yes.

11 Q. Do you go to church together?

12 A. We did. She was a member of the church that I
13 went to.

14 Q. And was this the Methodist church?

15 A. Yes.

16 Q. Cloverdale Methodist?

17 A. Lafayette Street United Methodist. My sister
18 worked at Cloverdale.

19 Q. I'm sorry. I'm getting my churches confused.
20 You go to Lafayette?

21 A. Lafayette United Methodist Church, yes.

22 Q. And how long have you known Mary Turner?

23 A. Since she started -- well, let's see. Our

0071

1 church was very big. I would say when she
2 started with the City because she didn't
3 attend church a whole lot whenever I was
4 there. Or if she did, I didn't see her
5 because we're -- we had quite a bit in our
6 congregation, so there would've been times

7 when I didn't see her. But I actually met her
8 whenever she started working with us for the
9 City.

10 Q. Besides church, did you and Mary socialize?

11 A. Not -- not during that time, no. Not in '95.

12 I mean, we -- you know, if things were going
13 on at church, of course. But not --

14 Q. But later did you become as friends --

15 A. Yes.

16 Q. -- and socialize?

17 A. Sure.

18 Q. And do you still go to Lafayette United
19 Methodist Church?

20 A. Yes.

21 Q. Does Mary still go there?

22 A. Yes.

23 Q. What about Shirley Thomas? I'm talking about

0072

1 1995 now.

2 A. Yeah.

3 Q. Were you friends outside of the workplace?

4 A. No.

5 Q. Did you go to church with Shirley?

6 A. No.

7 Q. Ever become friends with Shirley?

8 A. Yes. My family knew her husband.

9 Q. Ever socialize with her outside the workplace?

10 A. Not -- no. Not unless it was a work-related
11 function.

12 Q. Okay. How did you come to get your job in the
13 police department?

14 A. It -- there was a job opening, and I applied
15 for it.

16 Q. I mean, is it a posting process?

17 A. Yes. Yes, ma'am.

18 Q. Did you have to take any kind of test or
19 anything like that?

20 A. I'm not sure. I know that that changed over
21 the course of the years that you didn't have
22 to take a test, but I'm not sure if I did.

23 Q. You filled out an application?

0073

1 A. Yes.

2 (Defendants' Exhibit 9 was marked
3 for identification.)

4 Q. Let me show you what I've marked as

5 Defendants' Exhibit Number 9, and ask you if
6 you could identify that for me, please. Is
7 that your application to the police
8 department?

9 MR. JAFFREE: Can I see 8 for a
10 minute?

11 Thank you.

12 Q. Ms. Brackin, Number 9, does that appear to be
13 your application to work in the police
14 department at the city of Dothan in 1995?

15 A. Yes.

16 Q. Do you remember interviewing for this job?

17 A. I don't recall the interview. I'm sure I was,
18 but I don't recall.

19 Q. And the job you were applying for is
20 secretary?

21 A. Yes.

22 Q. And did you get this job?

23 A. Yes.

0074

1 Q. And did that result in any pay change for you?

2 A. I'm not sure. It may be listed on there. I'm
3 not sure.

4 Q. And you were more interested in -- I think you
5 said "stable work hours?"

6 A. Right. Right.

7 Q. So you became a secretary in the police
8 department?

9 A. Yes.

10 Q. And what department were you working in?

11 A. The records division.

12 Q. And who was your supervisor?

13 A. Well, we had different -- like immediate and
14 then we had a captain over our division.

15 Q. Who was your immediate?

16 A. Immediate? When I first got hired, at the
17 time, it was Lieutenant Jim Smith. But then
18 he got promoted to captain, but he was the
19 captain over our division.

20 Q. And is he the one that evaluated you in the
21 police department?

22 A. I don't -- I don't remember. I mean, he might
23 have. It could have been the -- a sergeant.

0075

1 I'm not sure.

2 Q. Do you remember what sergeant you would have

3 reported to?

4 A. I know we had a few. We had a Ron Harden. We
5 had Anthony Westbury. I know at one point
6 when Lieutenant Smith made captain, we had
7 Lieutenant Roy Woodham was the supervisor.

8 Q. Woodham?

9 A. Yes, ma'am.

10 Q. And what were your -- just generally, what
11 were your duties as a secretary in the records
12 division of the police department.

13 A. Oh, we were responsible for, of course,
14 receiving phone calls from the public, and we
15 sold accident -- incident/offense reports to
16 the public. We also were responsible for
17 keying in the arrests and incident/offense --
18 accident -- not accident reports, but other
19 types of reports into the computer. And then
20 I also assisted Tonya Anderson who was the
21 payroll clerk for the police department with
22 payroll and accounts payable.

23 Q. Did you continue to have any interaction with
0076

1 the magistrate's office while you worked --

2 A. Well, their office was actually inside the
3 same area that ours was for -- I'm not sure
4 for how long. And then they moved over to the
5 Civic Center.

6 Q. So let me make sure I understand this. The
7 police department is -- we're in the Civic
8 Center --

9 A. Correct.

10 Q. -- today?

11 A. Correct.

12 Q. And I may be turned around, but the police
13 department is across the street?

14 A. Yes.

15 Q. Housed in it's own building facility?

16 A. Yes.

17 Q. Is that correct?

18 A. Yes.

19 Q. And at that time the magistrate's office was
20 contained in the police department building;
21 is that correct?

22 A. Yes, it was.

23 Q. And is the actual municipal courtroom in the
0077

1 police department building?

2 A. Yes, it is.

3 Q. Was it at that time?

4 A. Yes.

5 Q. So when I asked the question, was there any
6 interaction, really, the police department and
7 the magistrate's office were right there
8 together --

9 A. Yes.

10 Q. -- in the same building?

11 A. Yes.

12 Q. How many stories is the building?

13 A. It's, I believe, two.

14 Q. Two stories.

15 A. Well, actually just the -- it's not a full two
16 story, but it's got the jail and the patrol
17 room downstairs.

18 Q. But your office and the magistrate's office
19 was upstairs?

20 A. Yes. But when you walk in the front door,
21 you're on that floor level. I know, it's kind
22 of --

23 Q. And you were -- how long did you stay in the
0078

1 police department?

2 A. I believe I went back into the magistrate's
3 office in April of '01.

4 Q. And I'm just asking you if you know from
5 memory, because I know you really weren't
6 working in the department, who the
7 magistrates -- did Kevin Sorrells stay over
8 there as a magistrate?

9 A. He stayed in the magistrate's office. But
10 like I said, I'm not sure how long after I
11 went to work in the police department; the
12 magistrate's office moved to the Civic Center.

13 Q. Oh, okay. You don't know when that was?

14 A. No, ma'am, I don't.

15 Q. And that's the building we're in?

16 A. Yes.

17 Q. Did the jail -- excuse me. Did the courtroom
18 stay over there at the police department?

19 A. Yes, it did.

20 Q. Did Gayle Schwarz remain as the head of the
21 magistrate's office while you were gone, to
22 your knowledge?

23 A. Yes. And then I believe someone else -- when
0079

1 she left, there was another one that received
2 that position.

3 Q. Do you know who that was?

4 A. Donna Nicholson.

5 Q. Did you ever work for Donna Nicholson?

6 A. Yes.

7 Q. So Donna -- when you went -- and I'll ask you
8 about that in a minute. But Donna Nicholson
9 was the head of the magistrate's office when
10 you went back to the magistrate's office; is
11 that correct?

12 A. Yes.

13 Q. Now, why is it you applied to go back to the
14 magistrate's office?

15 A. For -- I -- I kept up my certification even
16 while I was in the police department, so I
17 just enjoyed the work and wanted to be back in
18 that capacity.

19 Q. Were you ever disciplined or reprimanded,
20 either verbally or in writing, while you were
21 at the police department?

22 A. No, not to my.

23 Q. So you had your magistrate certification as of
0080

1 1995?

2 A. '97.

3 Q. But you went to the -- I'm getting confused.
4 You went to the police department in '95?

5 A. Yes, ma'am.

6 Q. But you're saying, while you were at the
7 police department, you --

8 A. I kept up my magistrate's --

9 Q. -- had schooling?

10 A. And I was certified in June of '97.

11 Q. And the City paid for that?

12 A. No.

13 Q. Well, you weren't in the magistrate's office
14 at the time.

15 A. Right.

16 Q. You did it on your own?

17 A. I paid for that myself. Yes, ma'am.

18 Q. And your schooling was -- I mean, did you take
19 it online, by --

20 A. No.

21 Q. -- correspondence; did you have to go
22 somewhere?

23 A. I had to go.

0081

1 Q. Go where?

2 A. To Tuscaloosa.

3 Q. Tuscaloosa. But you became officially
4 certified in '97; is that correct?

5 A. Yes.

6 Q. Okay. You said Gayle left. Mary Turner, she
7 was still over there while you were at the
8 police department?

9 A. Yes.

10 Q. Mary Turner was still in the magistrate's
11 office --

12 A. Yes.

13 Q. -- while you were at the police department?

14 A. Uh-huh (positive response).

15 Q. Shirley Thompson, was still there while you
16 were at the police department?

17 A. I'm not sure because she -- she retired. I'm
18 not sure what year Shirley retired in.

19 Q. Did Mary Turner, in any way, try to persuade
20 you to come back to the magistrate's office?

21 A. Not to my -- I mean, no. I did that myself.

22 Q. And when you came back to the magistrate's
23 office, do you know what year that was?

0082

1 A. 2001

2 Q. And at that time, had there been some changes,
3 to your knowledge, in the magistrate's office?

4 A. What do you mean, "changes?" As far as what?

5 Q. Well, that's what I'm asking you.

6 A. I mean, I don't --

7 Q. Were Doug Bates and Mike Brown still part-time
8 municipal judges?

9 A. No. No.

10 Q. You mentioned one time that the magistrate's
11 division was under the city manager. I'm just
12 asking, were you aware of any changes that had
13 taken place in either the organization of the
14 magistrate's office or what department -- was
15 its own department; did it have its own judge?

16 A. Yes.

17 Q. Tell me what your understanding was about
18 that?

19 A. It was known as the Judicial Department, and
20 they had a full-time judge.

21 Q. And that's Judge Gordon?

22 A. Yes.

23 Q. Who is sitting here, whom you have sued in
0083

1 this case; is that correct?

2 A. Yes.

3 Q. Did you have to make an application to go back
4 to the magistrate's office?

5 A. Yes.

6 Q. Was there a vacancy posted?

7 A. There was a job posted.

8 Q. Do you know any other people that bid on this
9 job?

10 A. Not to my -- I'm not sure. I know -- I think
11 that the roster was for two years. I'm not
12 sure. I knew that Lavera had applied for the
13 job.

14 Q. Talking about Lavera McClain?

15 A. Yes. And -- what was her name? She was in
16 the magistrate's -- or used to be in the --
17 Wendy. I'm not sure what Wendy's last name,
18 but she was -- she had worked in the
19 magistrate's office at one time. I'm sure if
20 she went to dispatch during this time or not.
21 But I -- I know that she applied, but I'm not
22 sure if it was this time or not. I know that
23 she had applied for the job.

0084

1 Q. Do you remember interviewing for the
2 magistrate's job when you applied to go back?

3 A. I interviewed, but I don't recall, you know,
4 what date or anything.

5 Q. Who did you interview with?

6 A. I believe it was Judge Gordon. And I'm not
7 sure if Donna was there or not. I'm -- I'm
8 not sure.

9 Q. Donna Nicholson?

10 A. Yes.

11 (Defendants' Exhibit 10 was marked
12 for identification.)

13 Q. Let me show you Defendants' Exhibit Number 10,
14 and ask if you can -- it's entitled
15 Application for City of Dothan Employment.
16 And just ask if you can identify if that was

17 your application to go back to the
18 magistrate's office.

19 (Brief pause)

20 A. Yes.

21 Q. This may be a good time just to take a quick
22 break.

23 A. Please.

0085

1 (Brief recess)

2 Q. We're back on the Record, Ms. Brackin. I was
3 asking you about Defendants' Exhibit 10, your
4 application to go back to the magistrate's
5 office. And that's your signature; is that
6 correct, on the --

7 A. Yes.

8 Q. -- back, page 6?

9 And it's dated December 4th, 2000; is that
10 correct?

11 A. Yes.

12 Q. And do you know approximately when you went
13 back to the magistrate's office?

14 A. I believe it was in April of 2001.

15 Q. And Judge Gordon would have been the
16 individual selecting you to go back; is that
17 your understanding?

18 A. That's my understanding.

19 Q. Now, one of the documents you produced to me
20 today, I'm going to mark as Defendants'
21 Exhibit 11.

22 (Defendants' Exhibit 11 was marked
23 for identification.)

0086

1 Q. And ask if you can -- it's a letter from
2 Captain Jim Smith to Judge Gordon.

3 A. Yes.

4 Q. Is that correct?

5 A. Uh-huh (positive response).

6 Q. And that's dated December 30th, 1999?

7 A. Yes.

8 Q. Can you tell me what this is?

9 A. It's a letter of recommendation.

10 Q. On your behalf -- I mean, recommending you for
11 the municipal court administrator?

12 A. Yes.

13 Q. Now, this was a year prior to your going back
14 to the magistrate's job; is that correct?

15 A. Yes.

16 Q. All right. I'm looking at Defendants' Exhibit
17 11.

18 Were you seeking the job of municipal
19 court administrator?

20 A. I think I had applied, yes. I'm not sure.

21 Q. And do you remember interviewing for that job?

22 A. I don't -- I don't recall. I mean, I -- I
23 don't remember.

0087

1 Q. Do you know who got that job?

2 A. I'm not sure if that's when Gayle had left and
3 Donna got that position. I'm not -- I'm --
4 I'm just not sure.

5 Q. But Donna Nicholson was the municipal court
6 administrator when you moved back over
7 there --

8 A. Yes.

9 Q. -- in 2001?

10 A. Yes.

11 Q. What made you choose to go back to the
12 magistrate's office?

13 A. Just enjoyed being in that capacity and
14 enjoyed the work.

15 Q. Did it result in any pay change for you?

16 A. I believe it did. I believe it was a pay
17 increase because it -- yeah. It was a step up
18 as far as the classifications between a
19 secretary and a magistrate, were in different
20 classifications.

21 Q. Higher grade or --

22 A. Yes.

23 Q. -- higher class?

0088

1 Now, when you went back to the
2 magistrate's office in 2001 -- I'm just trying
3 to understand -- at that point the
4 magistrate's office was here in the Civic
5 Center.

6 A. Yes.

7 Q. And things had changed from when you were
8 there before from the standpoint that there
9 was now a Judicial Department; is that
10 correct?

11 A. Yes.

12 Q. And Judge Gordon was head of that department;

13 is that correct?

14 A. Correct, to my knowledge.

15 Q. She was a full-time municipal court judge?

16 A. Yes.

17 Q. Judge Bates or Judge Brown, did they continue
18 in any capacity?

19 A. At times, I think, whenever she was -- she had
20 to recuse herself, they would act -- they
21 would fill in.

22 Q. And there was also a municipal court
23 administrator. Was that a new function, or

0089

1 was that what Gayle Schwarz had been?

2 A. That's -- that was pretty much -- the title
3 had just changed. But that was --

4 Q. Do you know that or just your understanding?

5 A. That's just my understanding.

6 Q. You don't really know for sure --

7 A. No. I mean, I wouldn't --

8 Q. -- what changes were made?

9 A. Well, Gayle was the immediate supervisor. And
10 then when Donna got the job she was the
11 immediate supervisor. So -- but the titles
12 were different.

13 Q. And I'm just saying, you don't personally know
14 if there were any changes in their duties or
15 responsibilities?

16 A. No.

17 Q. When you went back over to the -- that's my
18 phrase. When you went back over, back to the
19 magistrate's office, the judicial office, who
20 were the magistrates at that time?

21 A. Mary Turner, Sarah Fowler, Ann Baxter.
22 Valerie Savage, and Debbie Irby, I believe.

23 Q. What were your job duties when you went back?

0090

1 A. I'm not -- I mean, I don't -- I don't remember
2 specifically what I was doing. I did a number
3 of things.

4 Q. Can you tell me what they were?

5 A. Specifically, which function? I mean, I -- we
6 would all do, like, different -- I mean, we
7 would all work the window. We would take fine
8 money. We would swear, do warrants. I mean,
9 we all did.

10 Q. You all did --

11 A. We kind of.

12 Q. -- similar duties?

13 A. Yes. Yes.

14 Q. Did you rotate duties?

15 A. Sometimes we did if we needed to help somebody

16 if they were behind or if we needed to -- you

17 know, if they were out, you know, we would --

18 we would pick up what they did or --

19 Q. Did some magistrates focus more on one duty as

20 opposed to another?

21 A. Yeah. Some had specific areas that they were

22 given responsibility over.

23 Q. Can you give me some examples there? Did you

0091

1 have responsibility --

2 A. Well --

3 Q. -- over a certain area?

4 A. At the time I was actually hired I don't

5 remember what my actual, main function was.

6 But I know that after that, like I would

7 have the -- at some point in time, I was

8 responsible for all the trials. I was

9 responsible for the appeals, the daily

10 deposits of the moneys. Gosh, let's see.

11 Q. Did y'all have like a --

12 A. Prisoners. That sort of thing.

13 Q. When you say "prisoners," what do you mean?

14 A. We do -- we do the prisoners once a week.

15 Q. What does that mean?

16 A. The people that were still in jail that had

17 not made bond. And Sarah Fowler was the main

18 person in charge of that, but I would help her

19 out and get the paperwork prepared. And we

20 would go work to do the prisoner paperwork.

21 The judge would see the prisoners.

22 Q. You and Sarah had not worked together before

23 at the magistrate's office; is that correct?

0092

1 A. Yeah. Now, she was -- she was hired I believe

2 before I left in '95. I'm not sure. I'm --

3 I'm just not -- I'm not sure if she was there

4 when I left in '95.

5 Q. Did you have any issues with Sarah Fowler?

6 A. No, not to my knowledge.

7 Q. Did she ever make complaints about you?

8 A. Not to knowledge.

9 Q. Were y'all friends outside of the workplace?

10 A. Uh-huh (positive response).

11 Q. Did y'all go to church together?

12 A. No.

13 Q. Did she go to the Daughters of the Nile?

14 A. No.

15 Q. What about Ann Baxter?

16 MR. JAFFREE: Again, you may think

17 you're very clear in terms of

18 what time period you're talking

19 about, but you haven't been.

20 When you asked her about Sarah,

21 she said she may have started

22 working before she left. I

23 mean, that would've be in

0093

1 perhaps early '95. And then you

2 asked her about, ever have any

3 issues. So I don't know if

4 you're talking about '95 or back

5 in 2001 when she returned to

6 work. And the same with this

7 other magistrate you just

8 asked. I'm not sure what time

9 period you're talking about

10 unless you're talking about her

11 entire period of employment with

12 the City.

13 Q. Do you know Ann Baxter?

14 A. Yes.

15 Q. Were you went back to the magistrate's office

16 in 2001, Ann Baxter was there; is that

17 correct? You just gave me her name as being

18 there.

19 A. Yes.

20 Q. Did she have any areas that she was

21 responsible for?

22 A. I'm sure she did.

23 Q. Do you now what they were?

0094

1 A. No.

2 Q. Did you know Ann Baxter before that time

3 frame?

4 A. No.

5 Q. And in 2001 when you went back, did you and

6 Ann Baxter have any issues or any inability to

7 work together in the workplace?

8 A. Well, we worked together. I mean, I don't
9 know of anything that would have prevented us
10 from doing that.

11 Q. Were you ever critical of her work?

12 A. As far as to who? I mean, by telling her
13 or --

14 Q. Her or anybody about her work performance?

15 A. Not that I can recall. I mean, I don't --

16 Q. Did you have any issues with Sarah -- at that
17 time in 2001, any issues with Sarah Fowler's
18 work?

19 A. That I recall. No.

20 Q. What about Valerie Savage, any issues with her
21 work?

22 A. Not that I recall.

23 Q. Debbie Irby, any issues with her work

0095

1 performance?

2 A. I believe Debbie worked -- I'm not sure if
3 Debbie worked nights or not. I don't -- I
4 didn't work that close with Debbie. I
5 don't -- I don't recall anything with Debbie.

6 Q. But Mary Turner, did you have any issues with
7 her work performance?

8 A. With her work performance?

9 Q. Yes.

10 A. I don't -- I mean, I don't know all of
11 everybody's work performance as far as -- you
12 know, I mean, if people -- if they made
13 errors, I brought it to their attention. But
14 as far as their work performance, I didn't --
15 I didn't critique what their work performance
16 was.

17 Q. That was not your job, was it?

18 A. No. I mean, I --

19 Q. And you don't always know what these
20 individuals were doing on a given time period,
21 do you, as far as what work duties they were
22 doing, what work they were performing?

23 A. Well, not during the day, but we all -- we had

0096

1 a schedule of who was responsible for certain
2 assigned tasks. So like if I knew that I had
3 a question about an appeal, I knew that
4 Valerie at some point in time did appeals so I

5 could go ask her something, if that's what
6 you're referring to.

7 Q. But you were not their supervisor, were you?

8 A. No. No.

9 Q. Did the department have any type of computer
10 system that they worked with?

11 A. We, at the time when I went back, we were
12 still using the same system that we had in '92
13 when we started.

14 Q. What was that?

15 A. It was a program that one of the city
16 programmers came up with. I mean, I don't --

17 Q. Did it have a name?

18 A. I don't know. It was -- it was a
19 special -- nobody else had it. It was our
20 special program for the municipal court.

21 Q. I'm not a technology person?

22 A. I know.

23 Q. But what did it do for the department?

0097

1 A. It held all the files as far as the computer
2 files of all the actions with the municipal
3 court. I -- that's where we got our dockets
4 from and if you needed to look up cases.

5 Q. Did that change at some point?

6 A. Yes.

7 Q. And when did that change?

8 A. I'm not sure when we started to implement the
9 new computer system. I'm not sure when that
10 date was.

11 Q. Did the new system have a name?

12 A. It was HTE.

13 Q. Did you have any role in --

14 A. Yes.

15 Q. -- that new computer system?

16 MR. JAFFREE: Let her finish her
17 question.

18 THE WITNESS: Oh, okay. I'm sorry.

19 Q. Yeah. Did you have any role in that new
20 computer system being put into effect?

21 A. Yes.

22 Q. And what was your role?

23 A. I was actually asked by Tim Stewart to -- they

0098

1 needed a magistrate to kind of not -- well, I
2 guess to be the one to work with, to make sure

3 that the -- everything from the old system
4 transferred to the new system as far as asking
5 questions about magistrate duties and the
6 functions of what, you know, a case had in
7 tune of the new computer system and that sort
8 of thing and working with the programmers that
9 came from Washington and --

10 Q. Now, who is Tim Stuart?

11 A. He is the IT department head.

12 Q. And the programmers were from Washington,
13 D.C.?

14 A. State of Washington.

15 Q. Washington state.

16 And I take, a lot of information has to be
17 keyed into the computer?

18 A. Yes.

19 Q. And who did that?

20 A. What information?

21 Q. Okay. That's what I'm trying to -- lots of
22 information, obviously?

23 A. Yes. Yes.

0099

1 Q. And different people had different
2 responsibilities in inputting information; is
3 that correct?

4 A. Yes.

5 Q. Did you have responsibilities to key in
6 information?

7 A. Yes.

8 Q. And just can you -- I'm trying to understand.
9 Tell the types of information you would've
10 keyed in.

11 A. I would issue the subpoenas if cases were set
12 for trial. If I was working the front window,
13 I took in fine money from people paying their
14 tickets or paying on a case that they owed
15 money on.

16 Q. So was that more like a cashier function?

17 A. No. You had to be a magistrate to take --
18 because you're taking a guilty plea from a --
19 from a defendant. You would have to actually
20 be in the magistrate capacity to take fine and
21 costs money.

22 Q. I understand that. But then they could
23 actually be paying -- if I got a speeding

0100

1 ticket, say, I could come to the magistrate
2 window --
3 A. And if you wished to plead guilty --
4 Q. -- and pay my fine?
5 A. Plead guilty.
6 Q. Well, just pay; I'm pleading guilty?
7 A. Yes. Yes.
8 Q. You take my money?
9 A. Yes.
10 Q. I mean, that's what I'm asking. Is there a
11 cash register there? I mean, is there a --
12 A. It was done on a computer, and there was a
13 receipt -- receipt printer that's attached to
14 the computer.
15 Q. And you're keying that information in the
16 system also?
17 A. Yes.
18 Q. And could be making change?
19 A. Yes.
20 Q. And that's called the front window?
21 A. Yes. That's what we refer to it as.
22 Q. Is that a place you generally worked?
23 A. We would rotate. We had different times that

0101

1 we would rotate and work the front window.
2 Q. I was, again, trying to get ideas of
3 information that's keyed in the system. It
4 could be anything from keying in the payment
5 of a fine to --
6 A. Well, from the -- from the initial time
7 whenever the magistrate receives the ticket,
8 that ticket is keyed in. We have a person
9 responsible for keying in the tickets, that
10 would assign them case numbers. Then we have
11 somebody also keying in cases that if they
12 were arrested on. So there was just different
13 processes that a case would take. But,
14 initially, it started off with a complaint
15 that was keyed into the computer. And then
16 the process would go from there.
17 Q. And how long did it take for this new HTE
18 system to be implemented?
19 A. To -- actually to where we were live on that
20 system from the old system?
21 Q. Yes.
22 A. Is that what you're talking about? I'm not --

23 I'm not sure. I would have to actually -- you
0102

1 know, we -- we would probably need to talk to
2 the IT department about that. I'm not --

3 Q. It could've been months or weeks or --

4 A. I think it was months. I'm not sure how
5 many. I mean, it could've been two or three.
6 It could've been more than that. I'm just not
7 sure. I don't remember when we went live.

8 Q. And you don't know the exact date the change
9 was made?

10 A. No.

11 Q. Was there training done?

12 A. Yes.

13 Q. And of training done?

14 A. Yes.

15 Q. Did it take some time to -- strike that.

16 Did you have any issues with this newt HTE
17 system?

18 A. There was some -- some things that as far as
19 to where it would work better for our routine
20 with a case. We had to get them to kind of
21 tweak a few things.

22 Q. Any problems with the system or --

23 A. We had some issues with some things, but they
0103

1 were eventually worked out.

2 Q. You went back to the magistrate's office in
3 2001. On Defendants' Exhibit 11, you told me
4 you had expressed interest in a municipal
5 court administrator job.

6 Are there any other jobs that you sought
7 after 1999? Did you seek -- that's a bad
8 question. Strike that.

9 After 2001 you moved back to the
10 magistrate's office. Did you ever seek any
11 other job positions at the City of Dothan?

12 A. I -- not -- I don't recall. Not to my
13 knowledge. I mean, if I did, I don't
14 remember.

15 Q. You said Donna Nicholson was there when you
16 went back to the magistrate's office in 2001;
17 is that correct?

18 A. Yes.

19 Q. And there was a time that she left; is that
20 your understanding, that she left the

21 employment of the City of Dothan?

22 A. Yes.

23 Q. Do you know why she left?

0104

1 A. She was terminated.

2 Q. Do you know why, I mean?

3 A. From what I understand, it had something to do
4 with allowing a magistrate to take leave and
5 it was not on her -- I don't want to say time
6 card but --

7 Q. But you don't really know, do you, why she
8 left? I mean, you said, it was your
9 understanding, but do you have personal
10 knowledge as to why she was terminated?

11 A. From what Donna told me.

12 Q. What Donna herself told you?

13 A. Yes.

14 Q. But that's all you know, is what Donna told
15 you?

16 A. Yes.

17 Q. Did that leave a vacancy in her position as
18 municipal court administrator?

19 A. Yes.

20 Q. Did you ever seek that job --

21 A. No.

22 Q. -- again?

23 A. No.

0105

1 Q. And who took her place?

2 A. Bettye King.

3 Q. And how long -- did you report to Bettye King?

4 A. Yes.

5 Q. And how long did you report to Bettye King?

6 A. I don't -- I'm not sure when Bettye left. I
7 don't -- I don't remember.

8 Q. Did --

9 A. I don't think she was there very long.

10 (Defendants' Exhibit 12 was marked
11 for identification.)

12 Q. Switching gears just a moment here.

13 I'm going to show you what I've marked as
14 Defendants' Exhibit Number 12. Is that your
15 signature, Ms. Brackin?

16 A. Yes.

17 Q. And can you tell me your understanding of what
18 that is?

19 A. It's -- it's the Certification of
20 Understanding for the Position of Magistrate.

21 Q. In essence, did you sign that when you applied
22 to go back to the magistrate's office?

23 A. Yes.

0106

1 Q. In essence -- and I'm just trying to move
2 things along, your understanding that you knew
3 you had to get certified, or may be you were
4 certified?

5 A. I was already certified.

6 Q. That's what I --

7 A. Right. Right.

8 (Defendants' Exhibit 13 was marked
9 for identification.)

10 Q. I'll show you Defendants' Exhibit Number 13.

11 A. Right.

12 Q. Is that your certification?

13 A. Yes.

14 Q. So I just wanted to -- this is your
15 certification that you are a certified
16 municipal court clerk/magistrate?

17 A. Yes.

18 Q. And you obtained that in June of '97?

19 A. Yes.

20 Q. I think you testified to that previously. You
21 got that while you were at the police
22 department?

23 A. Yes.

0107

1 Q. When you signed Defendants' Number 12, that
2 you knew you had a certain time to get
3 certified, you were actually certified?

4 A. Yes. Yes.

5 Q. I just wanted to clarify that.

6 Were you ever evaluated in a performance
7 evaluation by Donna Nicholson?

8 A. Yes.

9 (Defendants' Exhibit 14 was offered
10 and admitted into evidence.)

11 Q. I'll mark, for the Record, Defendants' Exhibit
12 14 and ask if you can identify that for me,
13 please.

14 Brief pause)

15 Q. Is that your signature on the last page of
16 that evaluation?

17 A. Yes.

18 Q. And that was -- excuse me for looking over
19 here. Your evaluating supervisor is -- is
20 that Donna Nicholson's --

21 A. Yes.

22 Q. -- signature?

23 A. Yes, it is.

0108

1 Q. And she completed that on about August 1 of
2 2001; is that correct?

3 A. Yes.

4 Q. And you had been in the department at that
5 time about four months?

6 A. Yes.

7 Q. And did you have a chance to comment on your
8 performance review?

9 A. Yes.

10 Q. And what did you write?

11 A. "I concur."

12 MR. JAFFREE: You like that word.

13 Q. When you wrote, I guess -- I mean, had --
14 Donna Nicholson had signed up at the top page
15 in July 27th, 2001?

16 A. Right.

17 Q. And Judge Gordon had commented -- made some
18 written comments on August 1; is that correct?

19 A. Yes.

20 Q. Do you know about when Donna Nicholson left?

21 A. No, I do not remember.

22 Q. Do you know if she evaluated you on more than
23 one occasion?

0109

1 A. Yes.

2 (Defendants' Exhibit 15 was marked
3 for identification.)

4 Q. I'm going to show you another evaluation,
5 which I've marked as Defendants' Exhibit
6 Number 15, and ask if you can identify that
7 for me, please.

8 (Brief pause)

9 Q. Is that your evaluation, Ms. Brackin,
10 for -- that was given to you in November of
11 2001?

12 A. Yes.

13 Q. And, again, I think you testified earlier
14 because you were deemed still -- you had just

15 gone back to the magistrate's office. Is it
16 your understanding that because of that, you
17 were evaluated your first year more frequently
18 than after being in the position for a while?

19 A. Yes.

20 Q. I'm looking at number eight here. It's called
21 Dealing with the Public, and the comment is,
22 "Recently there have been complaints from
23 attorneys regarding the way they were talked

0110

1 to by Mary Beth." And you received a one,
2 which is unsatisfactory; is that correct?

3 A. Yes.

4 Q. Did Donna discuss that with you during this
5 evaluation?

6 A. Nothing other than what she wrote on there, to
7 my knowledge. That's -- that's all I recall.

8 I don't recall her mentioning any specific.

9 Q. Did you ask her about that?

10 A. No.

11 Q. Were you not concerned that you had received
12 an unsatisfactory in that area?

13 A. I know that that was after my first internal
14 investigation.

15 Q. Okay. And your first internal investigation
16 referring to the -- I'm calling the Ralpeje?

17 A. Yes.

18 Q. And that's R-A-L-P-E-J-E --

19 A. Yes.

20 Q. -- matter?

21 I mean, do you think that had something to
22 do with a complaint that had been received?

23 A. I think giving me the unsatisfactory, that had

0111

1 an influence on it.

2 Q. Are you aware of any attorneys that complained
3 about you?

4 A. No.

5 Q. Now, I'm looking on the third page of this
6 evaluation, and it's a typed page. At the
7 top, it says, "November 14th, 2001." It's
8 signed by Donna Nicholson and yourself; is
9 that correct?

10 A. Yes.

11 Q. And it says that Donna -- these have been
12 discussed with plans established for

13 improvement; is that correct?

14 A. Yes.

15 Q. One of the areas for improvement was
16 "interaction with co-workers and the public;"
17 is that correct?

18 A. Yes.

19 Q. Did Donna discuss that with you?

20 A. It -- she discussed that with me, yes.

21 Q. And to "know the limits of advising public of
22 their rights and giving them the information
23 they need to make decisions affecting their

0112

1 case;" is that correct?

2 A. Yes.

3 Q. And y'all discussed that?

4 A. That's what she has on there.

5 Q. Well, I mean, do you remember discussing that?

6 A. I don't remember discussing it in detail with
7 her. I know that -- I feel like because of
8 the outcome of the internal that that's --
9 that's what the reprimand was for.

10 Q. And there were recommendations for
11 improvement. And the first one is
12 "realization that tone of voice and attitude
13 are important in conveying messages?"

14 A. Yes.

15 Q. Do you remember her discussing your tone of
16 voice and your attitude?

17 A. I don't remember her discussing it in detail.

18 Q. Did you ever ask her what she meant?

19 A. I don't recall if I did. I don't -- I don't
20 remember.

21 Q. And the second one was "develop the ability to
22 give defendants all necessary information
23 regarding the charges against them, the court

0113

1 processes, and their options without appearing
2 to make suggestions or helping to make
3 decisions for them."

4 Do you remember her discussing that with
5 you?

6 A. She didn't -- I don't remember the detail, but
7 we were -- we did go over that.

8 Q. And then I'm on the next-to-the-last page
9 where Donna has written that Mary Beth is a
10 good dependable worker who is very efficient.

11 She does need to realize that the manner in
12 which she sometimes talks to people can be
13 considered argumentative or abrasive. She needs
14 to improve in this area.

15 You saw that on the evaluation; is that
16 correct?

17 A. Yes.

18 Q. And did you question her in any way about that
19 or what she meant?

20 A. No, not -- not to my knowledge. I don't
21 recall if -- you know, if I did.

22 Q. Did you and Donna have any disagreement
23 between the two of you as to the inability to

0114

1 get along?

2 A. Not to my knowledge.

3 Q. And I think this is Judge Gordon's writing,
4 something to the same effect about
5 your -- "the manner in which she sometimes
6 talks to people can be considered
7 argumentative and abrasive. With the
8 exception of this area, Mary Beth will make
9 one of the best of magistrates we have.
10 Unfortunately, this job requires constant
11 interaction with co-workers, the public, and
12 other. This area is so important to what we
13 do that if Mary Beth does not improve in this
14 area, I would not be able to recommend
15 retention."

16 Do you remember writing that?

17 A. I didn't write that.

18 Q. I said, do you remember Judge Gordon writing
19 that?

20 A. I don't -- Judge Gordon did not go over this
21 with me. I don't -- I don't --

22 Q. You don't remember seeing that?

23 A. I mean, I saw that, but I don't remember her

0115

1 writing it.

2 Q. Okay. Her writing. Okay. And, again, I may
3 have asked you this. You had a chance to
4 offer a comment, and what did you put?

5 A. I put "concur."

6 Q. Now, you just testified that before receiving
7 this evaluation, that I think one of the
8 internal investigations had taken place?

9 A. Yes.

10 Q. And I have used the name Ralpeje. I keep
11 saying it the wrong way I think. But do you
12 recognize that name?

13 A. Yes.

14 Q. And who is Ralpeje?

15 A. She had some cases in the Municipal Court of
16 Dothan.

17 Q. And did you ever have any interaction with
18 her?

19 A. Yes.

20 Q. And do you remember whether or not she was
21 represented by counsel when she was in
22 municipal court?

23 A. When she was actually in court that day?

0116

1 Q. Yeah. Now, "that day." I'm like your lawyer
2 now.

3 A. I don't --

4 Q. Let's talk about when we're talking about. Do
5 you remember a time that she was in court that
6 led to an investigation regarding some
7 comments made by you?

8 A. Yes.

9 Q. Do you remember about when that was?

10 A. It was the -- the actual incident, I think,
11 happened in September of '01. The actual
12 incident was September 25th, 2001.

13 Q. And what are you referring to -- you're
14 referring to a letter that you produced to me?

15 A. Yes.

16 Q. I'm going to mark that as Defendants' Exhibit
17 Number 16.

18 (Defendants' Exhibit 16 was marked
19 for identification.)

20 Q. That's a letter that you produced to me.
21 That's to you from Judge Gordon; is that
22 correct?

23 A. Yes.

0117

1 Q. Tell me what you remember about that day.
2 Ms. Ralpeje was in court?

3 A. I was working -- at this time, the offices had
4 moved to another location, and it was where
5 the magistrates' offices were upstairs. And
6 our window that was opened to the public was

7 downstairs.

8 And on that particular day, I was working
9 downstairs at the window. And she, along with
10 a bondsman and her mother came in, and the
11 bondsman was on his cellular phone.

12 Q. The bondsman's name was Mr. Turner; is that
13 correct?

14 A. Yes.

15 Q. What bonding company was he with?

16 A. I'm not sure. I don't remember.

17 He was on the phone with his -- or was on
18 his cellular phone during our conversation --
19 my conversation with the defendant. And her
20 mother was sitting down in one of our chairs
21 in the lobby.

22 Q. And the defendant being?

23 A. The defendant stated that she had just come --

0118

1 Q. The defendant is Ms. Ralpeje?

2 A. Yes.

3 She stated that she had just come from
4 court and she was not satisfied with her
5 public defender and how he represented her.
6 And I advised her that she needed to go back
7 to the courtroom and talk to the judge and ask
8 the judge if she can get other counsel, that
9 we have two other public defenders.

10 Q. And you knew the public defender, didn't you?

11 A. No, I -- we don't -- all we have in the
12 computer is public defender. We don't know.
13 It could be any one of the three that's over
14 there.

15 Q. It's your testimony you didn't know who her
16 public defender was?

17 A. At the -- at the time she was speaking to me?

18 Q. Yes.

19 A. I don't if I -- if I knew his actual name or
20 not.

21 Q. Do you know Shaun McGhee?

22 A. Yes.

23 Q. And you knew that Shaun McGhee was her lawyer

0119

1 at that time, didn't you?

2 A. I don't recall if I knew for sure it was him
3 or if it was another public defender.

4 MR. JAFFREE: Excuse me. Is this

5 cross, or are you asking her
6 questions?
7 MS. NELSON: I'm asking her
8 questions. Yeah. It's all
9 across if you ask me.
10 MR. JAFFREE: Okay. Because it
11 sounds like you were
12 cross-examining her.
13 MS. NELSON: Well, I hope that's
14 what I'm doing.
15 MR. JAFFREE: But she indicated that
16 she wasn't sure who the public
17 defender was. You said you know
18 it was so-and-so.
19 Q. Well, you made negative comments about Shaun
20 McGhee to Ms. Ralpeje, didn't you?
21 A. No, I did not.
22 Q. And Mr. Turner heard those comments, didn't
23 he?
0120

1 A. He -- he claims he did, but I did not say
2 that. I would not say --
3 Q. Say what?
4 A. Whatever she claimed I said. I would not say
5 anything negative about a public defender. I
6 would not do that.
7 Q. And you didn't tell her that Shaun --
8 something to the effect that Shaun McGhee was
9 not a good lawyer, that he shouldn't have
10 entered a plea for her, or she should get a
11 new lawyer?
12 A. No, ma'am.
13 Q. Nothing of that nature?
14 A. I did not -- I did not speak in critical
15 regard to him.
16 Q. But you know for a fact that she made a
17 complaint or Mr. Turner reported that you had
18 made derogatory comments about Mr. McGhee?
19 A. That's what was told to me whenever I went for
20 my internal.
21 Q. How did you know that your comments were being
22 investigated?
23 A. I got a phone call. I'm not sure if it was

0121
1 that day or the next day or what. I got a
2 phone call from Sergeant Gray that asked me

3 if -- let me look at my notes.

4 Q. So I can be with you, what are you referring
5 to here, these notes you gave me?

6 A. Yes.

7 Q. Can you show me what you are referring to?

8 A. It looks like this (indicating).

9 (Defendants' Exhibit 17 was marked
10 for identification.)

11 Q. I'm going to mark this, what you're looking at
12 as Defendants' Exhibit 17. And I've got two
13 pages?

14 A. Yeah. Front and back. Yes.

15 Q. So you're referring to some notes,
16 Ms. Brackin?

17 A. Yes.

18 Q. And when did you prepare these notes?

19 A. I prepared them after this happened.

20 Q. And what did you prepare them?

21 A. Prepare them in?

22 Q. It's a notebook?

23 A. It's paper that I had or whatever I had

0122

1 available at home to write on.

2 Q. So you just went home that night and wrote
3 this down?

4 A. It might have been night. It could've been
5 couple days later.

6 Q. Okay. Go ahead.

7 A. So what was the question.

8 Q. The question was, how did you -- how were you
9 advised that, you know, this incident was
10 being investigated.

11 A. Sergeant Keith Gray called me. I was working
12 in my office, and he said, I needed to come to
13 the chief's conference room for an internal
14 investigation.

15 Q. Okay. And what did you say?

16 A. I asked him what it was about.

17 Q. And what did he say?

18 A. He said, "The judge didn't talk to you about
19 it?"

20 And I said, "No, she didn't."

21 And he then said he would call me back.

22 Q. So just tell me what happened.

23 A. I was called over to the judge's office, and

0123

1 she told me that I was being internally
2 investigated for this incident.

3 Q. Now what incident did she tell you about?

4 A. For the alleged complaint that -- the Ralpeje
5 incident.

6 Q. Okay. Do you know who made that complaint,
7 whether it was Ralpeje --

8 A. No, I don't.

9 Q. Or Mr. Turner, the bondsman?

10 A. No, I do not.

11 Q. Or if it was all of them?

12 A. I don't know.

13 Q. But you knew it was about that incident?

14 A. Yes.

15 Q. And if you'll continue. You said the judge
16 said you were -- that incident was being
17 investigated.

18 A. Internally investigated. And then I went back
19 to my office, and Michelle Sellers brought
20 over a paper for me to sign, which is this one
21 (indicating), Exhibit 16. And I -- I would
22 report to the chief's conference room on a
23 date and time, and I told her that I was not

0124

1 signing just yet until I glanced over it,
2 looked over it good. And she told me that if
3 I didn't, I would be insubordinate.

4 Q. Okay. So did you go sign it?

5 A. I signed it, yes.

6 Q. Okay. I'm going to look at your sheet here.

7 A. Okay.

8 Q. Now, the front page is -- you wrote "9/25/01;"
9 is that correct?

10 A. Uh-huh (positive response).

11 Q. But the back page has got November 2001?

12 A. Right.

13 Q. Now, I thought it was your testimony that you
14 went home after and filled this out?

15 A. Well, it could've been -- it could've been
16 after. I said it could've been after that.

17 It could have a few days the later. It
18 could've been later. I don't remember when I
19 actually wrote it.

20 Q. But you wrote it after you were aware that the
21 matter was going to be investigated?

22 A. Yes. Internally investigated.

23 Q. So on this date, 9/25/01, did you know you
0125

1 were being investigated?

2 A. No.

3 Q. You're saying that date represents --

4 A. That's the date the incident happened.

5 Q. It's your testimony you wrote this after you
6 knew about the investigation?

7 A. The internal -- when I was going to be
8 internally investigated.

9 Q. Okay. And Number 16, which is the letter you
10 gave me, is the letter from Judge Gordon that
11 you were -- the matter was going to be
12 investigated, and you were supposed to report
13 to Sergeant Gray and Sergeant Coleman for
14 administrative interviews?

15 A. Yes.

16 Q. And you signed the bottom of it; is that
17 correct?

18 A. Yes.

19 Q. And were you interviewed?

20 A. Yes, I was.

21 Q. By whom?

22 A. Sergeant Gray and Sergeant Coleman.

23 Q. And did they ask you questions?

0126

1 A. Yes.

2 Q. Do you remember -- did it involve the Ralpeje
3 issue?

4 A. Yes.

5 Q. Did it involve making statements about Shaun
6 McGhee?

7 A. Yes.

8 Q. Did they, in any way, state that complaints
9 had been made about what you had said about
10 Shaun McGhee?

11 A. I don't recall all of what was said in that.
12 I asked for copies of what happened during
13 that, and I never received anything. I can
14 remember that they were questioning me and
15 pretty much trying to get me to agree with
16 what they had complained about.

17 Q. Did you ever have any discussions with Shaun
18 McGhee about the complaint that had been made
19 against you?

20 A. If I did, I don't recall. I don't recall.

21 Q. Did you ever have any discussions with
22 Mr. Turner about what he had overheard you
23 say?

0127

1 A. I -- if I did, I don't remember. I don't
2 remember.

3 Q. Did you ever call him at home about the
4 investigation?

5 A. I -- I don't remember. I mean, if I did, I
6 don't remember.

7 Q. Could have?

8 A. I just don't -- I don't remember. I mean, I
9 don't know -- probably know his home number.
10 If I -- you know, I don't know how I would
11 have gotten that.

12 Q. Was any action taken against you, disciplinary
13 action, as a result of this?

14 A. The only thing that I can say that I feel like
15 might have been was what my evaluation
16 resulted, in marking of my evaluation.

17 Q. And that was the evaluation that we just
18 discussed, which was Defendants' 15?

19 A. Yes.

20 (Brief pause)

21 Q. Do you know if Shaun McGhee continued to
22 represent Ms. Ralpeje --

23 A. I don't know.

0128

1 Q. -- after they came to your window?

2 A. I don't know.

3 (Defendants' Exhibit 18 was marked
4 for identification.)

5 Q. I'm going to show what I marked as Defendants'
6 Exhibit 18 and ask you if you can identify
7 that, please, ma'am.

8 (Brief pause)

9 Q. Ms. Brackin, do you recognize that document?

10 A. Yes.

11 Q. It's another performance evaluation on
12 yourself; is that correct?

13 A. Yes.

14 Q. And did you sign that one?

15 A. Yes.

16 Q. It is dated February of 2002; is that correct?

17 A. That's correct.

18 Q. And you signed it; is that correct?

19 A. Yes.

20 Q. And, again, you had a change to comment on it,
21 and you used what terms?

22 A. "I concur."

23 Q. I concur?

0129

1 Now, this one is not completed by Donna
2 Nicholson?

3 A. Yes.

4 Q. Had she left at that time?

5 A. I assume.

6 Q. Do you know, was it completed by Judge Gordon?

7 A. Yes.

8 Q. Do you remember Judge Gordon going over this
9 with you?

10 A. She -- I assume she did.

11 Q. Don't remember?

12 A. I don't recall.

13 Q. And it was a satisfactory review; is that
14 correct?

15 A. Yes.

16 Q. I'm trying to -- looks like "Mary Beth has had
17 some problems" -- anyone -- "adjusting to a
18 new job?"

19 A. I don't know. I couldn't make that out.

20 MR. JAFFREE: Let me object to any
21 questions that you're going to
22 ask about that comment since
23 Ms. Brackin has said she doesn't

0130

1 understand it. And counsel is
2 asking questions I don't
3 understand.

4 MS. NELSON: Well, I'm just having a
5 hard time reading the -- it's
6 between the copy not being -- I
7 have the right to at least
8 question her once I can read
9 it. She might can remember it.

10 MR. JAFFREE: Well, she indicated
11 that she can't understand what
12 it is.

13 MS. NELSON: But if I'm able to read
14 it, she might have --

15 MR. JAFFREE: But she may not.

16 MS. NELSON: Well, I have a right to

17 ask. Your objection is noted.
18 MR. JAFFREE: There's several people
19 reading this document, trying to
20 figure out what she said.

21 (Brief recess)

22 MR. JAFFREE: Again, just for the
23 Record, I object to you asking

0131

1 her questions about that
2 notation after your conference
3 with several people to try to
4 figure out what it said.

5 MS. NELSON: Well, I can try to get
6 you a better quality. You're
7 right. If it's legible, I can
8 still ask her what she
9 remembers, even though she can't
10 read the writing.

11 MR. JAFFREE: You're asking her if
12 she remembers that statement,
13 which she said she didn't
14 understand.

15 Q. Do you remember the judge telling you that she
16 was hopeful that your attitude would continue
17 to improve as you worked on the job?

18 MR. JAFFREE: I think her testimony
19 was that she didn't remember
20 talking to the judge about that
21 evaluation. I think that was
22 her earlier testimony.

23 MS. NELSON: Well, I think she said

0132

1 she was sure the judge reviewed
2 it with her, but she, you know,
3 didn't remember specifically.

4 Q. Is that what you said?

5 A. Yes.

6 Q. You were still in your probationary period at
7 this point, weren't you?

8 A. I'm not sure. What's the date.

9 Q. February 22, 2002?

10 A. I'm not sure if we six months or a year. I'm
11 not sure.

12 Q. If you it were a year, you were still in your
13 probationary period, weren't you?

14 A. Yes.

15 (Defendants' Exhibit 19 was offered
16 and admitted into evidence.)

17 Q. Let me show you what I've marked as
18 Defendants' Exhibit 19, which is another
19 performance evaluation. Ms. Brackin, do you
20 recognize that? Can you identify that?

21 (Brief pause)

22 Q. Is that your signature on the last page?

23 A. Yes.

0133

1 Q. And this is your performance evaluation for
2 May of 2002; is that correct?

3 A. Yes.

4 Q. And at that point, you had been in the job
5 approximately a year; is that correct?

6 A. Yes.

7 Q. Back in that job.

8 And you received a satisfactory review; is
9 that correct?

10 A. Yes.

11 Q. And the review was completed by Judge Gordon;
12 is that correct?

13 A. That is her signature there, but, now, that's
14 not her Xs on the boxes, I don't believe,
15 because her markings are different than that.
16 I mean, I'm just going by the way she's marked
17 prior to. But I don't believe that's her --

18 Q. Whose Xs do you believe they are?

19 A. I don't know.

20 Q. Do you remember this being discussed with you?

21 A. I don't remember if was it. I -- I don't
22 recall.

23 Q. And, again, I'll ask you: You had a chance to

0134

1 comment and you concurred?

2 A. Yes.

3 Q. And, actually, judge said some very positive
4 things: I'm very pleased with Mary Beth's
5 progress is our group."

6 MR. JAFFREE: Is that a question, or
7 is a narrative?

8 MS. NELSON: If you'll let me ask my
9 question, I will.

10 MR. JAFFREE: Okay.

11 Q. Do you recall her stating that she was pleased
12 with your progress?

13 A. I don't recall her stating that.

14 Q. Do you recall reading that, that you were --

15 A. I --

16 Q. Reading that?

17 A. Reading that, yes.

18 Q. Did you have any issues with Judge Gordon at
19 this time?

20 A. What issues? What do you mean?

21 Q. Well, I'm asking you. Any disagreements with
22 her?

23 A. There were situations where errors were being

0135

1 made by the magistrates and she was not
2 addressing.

3 Q. And what errors are you talking about?

4 A. There were errors that were made by Lavera
5 McClain that she did not -- she did not
6 address.

7 Q. Well, I'm try to get -- what errors?

8 A. They were just different clerical errors,
9 computer errors, paperwork errors.

10 Q. And did you -- that she didn't address. Did
11 she know about these errors?

12 A. What date are we talking about? What's the
13 date of that evaluation?

14 Q. 2002.

15 A. I know that in a prior meeting, an open
16 meeting, where the Judicial Department
17 personnel director Kai Davis was present where
18 Lavera was speaking to me in a loud and
19 threatening manner. And there was only one
20 person in between us, so there was no need for
21 her to be that loud. And when I complained to
22 the judge about the way that Laver had spoke
23 to me and that I did not appreciate it,

0136

1 nothing was done about my verbal complaint.

2 Q. Okay. You're reading from your notes?

3 A. Yes, ma'am.

4 Q. And you're referring to your notes. I'm going
5 to mark your note that you produced to me as
6 Defendants' Exhibit Number 20.

7 (Defendants' Exhibit 20 was marked
8 for identification.)

9 Q. Is that correct?

10 A. Yes.

11 Q. And what does this have to do with errors
12 being made by --

13 A. Well, that was just an example. You were
14 asking me about --

15 Q. I'm was asking you about errors being made.
16 You're talking about clerical errors made by
17 Lavera.

18 A. Well, I mean, they were numerous. I don't
19 remember.

20 Q. Well, my question is, did you make -- how did
21 you know about these alleged errors?

22 A. Because when you -- whenever you have things
23 in the computer, our names were out there

0137

1 besides whoever keyed that into the computer.

2 Q. So this was like a keying error?

3 A. There were -- there were data entry errors,
4 and there was also just different types
5 of -- of paperwork errors where maybe
6 something wasn't done right on the paperwork.

7 Q. Like number not typed in correctly?

8 A. No. I'm talking about paperwork, the actual
9 paperwork.

10 Q. I know. But that's what I'm trying to
11 understand what you're talking about. What
12 kind of paperwork.

13 A. Cases, case paperwork.

14 Q. What kind of paperwork?

15 A. On a defendant.

16 Q. Like what?

17 A. It would be their case action summary, the
18 warrants. It was just, you know -- I know
19 that there were -- there were several
20 different errors involving paperwork, so, I
21 mean, I can't be exact as far as which
22 particular incident. I just know that there
23 were numerous. And I know that the -- one of

0138

1 clerks in the office had -- had come across
2 several errors.

3 Q. And what clerk was that?

4 A. Cheryl Maray.

5 Q. And what -- she's a clerk?

6 A. Yes.

7 Q. What kind of a clerk?

8 A. That's just what her position was, a clerk in

9 our office. I think it's clerk typist or
10 judicial assistant. I'm -- I'm not sure.

11 Q. And you didn't supervise Lavera?

12 A. No.

13 Q. When you learned about these alleged errors,
14 did you report them to someone?

15 A. Whoever was our supervisor at the time.

16 Q. Who was that?

17 A. I don't know. I mean, I don't -- I don't
18 remember. I know their that there
19 were -- there were -- I know that there were
20 complaints made to Donna. And, also, even
21 after that, I knew that Bettye and Nancy had
22 complaints.

23 Q. Bettye King would have been her supervisor?

0139

1 A. Yes.

2 Q. Do you know --

3 A. But I'm not sure who was there at time.

4 That's what I'm saying. But I do know the
5 complaints were made them.

6 Q. By yourself?

7 A. Excuse me?

8 Q. By yourself?

9 A. Some were, yes.

10 Q. But I'm asking -- that wasn't your own issue
11 or disagreement with Judge Gordon is that
12 Lavera was making errors and she didn't
13 address them?

14 A. That -- which time frame are you talking
15 about?

16 Q. Well, I was asking you about the document --
17 just in 2002.

18 A. Just that there were -- there was
19 inconsistency within the department.

20 Q. In what way?

21 A. Of the -- of the disciplinary.

22 Q. Okay. Did you ever make any errors?

23 A. I'm sure I did, but I mean, I wasn't aware

0140

1 that -- they were not brought to my attention.

2 Q. Did Mary Turner make some errors?

3 A. I don't know. I'm sure she did.

4 Q. Did Valarie Savage make some errors?

5 A. I don't know. I mean, I don't know if anybody
6 else did. They -- they may have.

7 Q. The only person that you knew made errors
8 was --

9 A. I know Ann Baxter made some errors.

10 Q. So you knew that Ann Baxter and Lavera McClain
11 made errors?

12 A. At this particular date?

13 Q. Yeah.

14 A. I'm sure some other people did, but I don't
15 know. It depended on if I dealt with
16 something that I was -- that I was dealing
17 with. If I dealt with that paperwork and I
18 saw that there was an error, then I would know
19 if they made a mistake.

20 Q. But the only ones you knew of that makes
21 mistakes were Lavera and Ann Baxter?

22 A. I'm -- but like I said, I mean, I'm sure
23 others did. But I don't know if it, you

0141

1 know --

2 Q. Were others disciplined, to your knowledge,
3 for their errors?

4 A. I don't know. I don't know.

5 Q. Were you ever disciplined for errors?

6 A. For errors?

7 Q. Yes, for errors.

8 A. For clerical errors?

9 Q. Yeah.

10 A. Not to my knowledge.

11 MR. JAFFREE: When you say "ever,"
12 are you talking about up until
13 the period of --

14 MS. NELSON: Ever.

15 MR. JAFFREE: -- of 2002?

16 MS. NELSON: Ever.

17 MR. JAFFREE: Because she was
18 terminated for an error.

19 THE WITNESS: Right.

20 A. I thought we were talking the -- during the
21 evaluation.

22 Q. A clerical error? You were terminated for a
23 clerical error?

0142

1 A. I was -- I was terminated for making a major
2 violation within a two-year period.

3 Q. But you were not terminated for a clerical
4 error, were you?

5 MR. JAFFREE: For the data entry
6 error. Have you looked at the
7 record?

8 MS. NELSON: I know the record. I'm
9 asking her. I'll get into it.

10 MR. JAFFREE: So-called negligent
11 data entry error.

12 Q. While we're on this meeting, Number 20, that
13 you've made a note about -- Defendants'
14 Exhibit 20, the one about an open meeting
15 where Kai Davis was there?

16 A. Right.

17 Q. Kai Davis is the personnel director; is that
18 correct?

19 A. Yes.

20 Q. And do you know why this meeting was being
21 held?

22 A. I don't recall. I don't remember.

23 Q. Did you have meetings with -- just one on one
0143

1 with Kai Davis?

2 A. Not to my -- I don't -- I don't recall if I
3 did or not. I don't think so, but I don't
4 recall.

5 Q. Do you know if any complaints had been made
6 about you to Kai Davis?

7 A. Not to my knowledge.
8 (Defendants' Exhibit 21 was marked
9 for identification.)

10 Q. I'll show you what I've marked as Defendants'
11 Exhibit 21 and ask you to identify that.
12 (Brief pause)

13 Q. Do you recall receiving this memorandum?

14 A. I have seen it before, yes.

15 Q. And it's a memo issued by Judge Gordon to the
16 Judicial Department personnel. You were one
17 of those; is that correct?

18 A. Yes.

19 Q. And this was issued January 8th, 2003; is that
20 correct?

21 A. Yes.

22 Q. Do you remember getting one of these?

23 A. I must have. I remember seeing it.

0144

1 Q. You remember seeing it?

2 A. Yes.

3 Q. And, of course, it's -- the subject is Public
4 Relations, but it was stressing the importance
5 of not commenting on the possibility of city
6 liability. Do you remember that?

7 A. Yes.

8 Q. And it also cited to Mr. Rubin. That was the
9 city manager; is that correct?

10 A. Yes.

11 Q. Do you remember why this came out, or was
12 there any kind of meeting held in conjunction
13 with the issuance of this memo?

14 A. I don't recall what made that memo get issued.

15 Q. You don't remember --

16 A. I don't -- I don't --

17 Q. -- any specific incident or concern to cause
18 this to be issued?

19 A. I don't believe we were -- I was -- I was not
20 specifically told why it was issued.

21 Q. Okay. And there's reference to a Ms. King.
22 That's Bettye King that was your supervisor at
23 the time?

0145

1 A. Yes.

2 Q. She was the court administrator?

3 A. Yeah, she was.

4 Q. After Donna Nicholson?

5 A. Yes.

6 Q. Do you know why she left?

7 A. I don't know. I don't know what her reason
8 for leaving was.

9 Q. And after she left, do you know who the court
10 administrator was?

11 A. Nancy Martin.

12 Q. And do you know if Bettye King ever had the
13 opportunity to evaluate your performance?

14 A. I'm -- she -- I'm sure she did, but I -- I
15 don't recall.

16 (Defendants' Exhibit 22 was marked
17 for identification.)

18 Q. I'll show you what I've marked as Defendants'
19 Exhibit 22. Just ask if you can identify that
20 for me, please.

21 (Brief pause)

22 Q. Do you recognize yes?

23 A. Yes.

0146

1 Q. And is that an evaluation given you by Bettye
2 King?

3 A. Yes.

4 Q. And you had the opportunity to comment; is
5 that correct.

6 A. Yes.

7 Q. And you put that --

8 A. "I concur."

9 Q. You concur. And that was dated April of 2003;
10 is that correct?

11 A. Yes.

12 Q. And this is also signed off by Judge Gordon?

13 A. Yes.

14 Q. To your knowledge? And I received a
15 satisfactory evaluation?

16 A. Yes.

17 Q. Do you have any issues or criticism of Bettye
18 King as a supervisor?

19 A. Not -- not that I recall.

20 Q. Did you ever -- these errors that you were
21 talking about that Lavera and Ann Baxter made,
22 and I guess you said others made, did you ever
23 bring those to the attention of Bettye King?

0147

1 A. Yes.

2 Q. Do you know what, if anything, she did when
3 you brought those to her?

4 A. I don't -- I don't recall. I mean, I don't
5 know if she talked with the people or she
6 passed it along to the judge. I don't know.

7 Q. There was a time in 2004 that you were
8 disciplined and suspended; is that correct?

9 A. Yes.

10 Q. Let me show you -- and that involves an
11 individual named Mr. Fondren; does that name
12 mean anything to you?

13 A. Yes.

14 Q. Did you know a Mr. Fondren?

15 A. I -- I don't know of him personally. I know
16 that he was a defendant.

17 Q. A defendant in your municipal court?

18 A. Yes.

19 Q. And do you remember having any interaction or
20 conversations with him?

21 A. Yes.

22 Q. And tell me what you remember.

23 A. He came -- I was working downstairs, and he
0148

1 came into the office and asked to speak to
2 Mary Beth Brackin. And told him that I was
3 she. And he said that he needed some
4 information and was sent because he was
5 falsely arrested.

6 Q. And falsely arrested for what?

7 A. I don't recall. He just -- he just said that
8 he needed to know what to do about it, that
9 his vehicle was towed, and he wanted to know
10 what he needed to do.

11 Q. And what did you tell him?

12 A. I told him that he had to go to the city
13 clerk's office.

14 Q. And was anyone present when this conversation
15 took place with Mr. Fondren?

16 A. I understand that -- I believe Lavera was
17 working in the back at the warrant windows,
18 which is a pretty good distance from the front
19 window.

20 Q. Anybody else present?

21 A. I don't recall. I don't remember.

22 Q. Did you ever tell Mr. Fondren that he had been
23 falsely arrested?

0149

1 A. No, I did not tell him he had been. I told --

2 Q. You told him what?

3 A. I told him that if he wanted to file for that,
4 he needed to go to city clerk's office and
5 that's what he needed to tell them as to the
6 reason why he was there.

7 Q. Were you aware that Mr. Fondren ever filed a
8 complaint or complained about you to the City?

9 A. I don't know.

10 MR. JAFFREE: I'm sorry. Was your
11 question never or did?

12 MS. NELSON: Ever.

13 MR. JAFFREE: Oh, I'm sorry.

14 A. I don't recall if he did.

15 Q. And were you ever advised that he had filed a
16 complaint with the City?

17 MR. JAFFREE: Against her? I'm
18 trying to -- are you saying a
19 complaint against her?

20 MS. NELSON: I just said a complaint

21 against the City.
22 MR. JAFFREE: Oh, just general
23 complaint.

0150

1 A. Against the City?
2 Q. I said against the City?
3 A. Not to my knowledge. I don't know.
4 Q. Were you ever told that he informed the city
5 that you told him that he had been falsely
6 arrested and he should sue the City?
7 A. No. I don't recall saying that.
8 Q. Well, I understand. But were you ever
9 informed that he had made those statements to
10 the City about you?
11 A. I don't recall specifically what was said. I
12 do know that there was an internal
13 investigation done into that, but I don't
14 recall what all was said in there and who
15 filed for and for what reason. It was just
16 about that particular incident that happened.
17 Q. And, again, you were reprimanded; is that
18 correct?
19 A. Yes I was.
20 (Defendants' Exhibit 23 was marked
21 for identification.)
22 Q. I'm going to show you what I've marked as
23 Defendants' Exhibit Number 23.

0151

1 (Brief pause)
2 Q. You were given notice of the charges against
3 you; is that correct?
4 A. Yes.
5 Q. And that's what Defendants' Number 23 is?
6 A. Yes.
7 Q. And I guess it's -- have you seen this
8 document before?
9 A. Yes.
10 Q. And I'm talking about notice of the charges.
11 It describes -- I guess the document can speak
12 for itself -- the incident regarding
13 Mr. Theron Fondren. And it points to the memo
14 that I showed you a moment ago about your
15 being directed not to comment on City
16 liability, which was Defendants' Exhibit
17 Number 21?
18 A. Yes.

19 (Defendants' Exhibit 24 was marked
20 for identification.)

21 Q. And then, ultimately, I'll show you
22 Defendants' Exhibit Number 24. That's the
23 actual discipline form regarding that

0152

1 incident; is that correct?

2 A. Yes.

3 Q. And have you seen and received a copy of
4 that?

5 A. Yes.

6 (Defendants' Exhibit 25 was marked
7 for identification.)

8 Q. And then as a result thereof --let me show you
9 Defendants' Exhibit Number 25 -- you were
10 given a ten-day suspension; is that correct?

11 A. Yes.

12 Q. Now, did you grieve this or appeal this
13 suspension in any way?

14 MR. JAFFREE: Excuse me. Unless I'm
15 wrong, there's no right to
16 grieve that --

17 MS. NELSON: I'm just asking --

18 MR. JAFFREE: -- unless you can show
19 me some document.

20 MS. NELSON: You're not being
21 deposed. I'm asking her.

22 MR. JAFFREE: Well, you may be
23 asking her something that she

0153

1 didn't have a right to do so.

2 MS. NELSON: I'm asking her if she
3 did.

4 MR. JAFFREE: Fine.

5 A. No, I did not.

6 Q. Did you challenge this in any way?

7 A. No, I didn't.

8 Q. Question it in any way?

9 A. No.

10 Well, I questioned it in my internal. I
11 mean, I -- I stated that I did not do that.

12 Q. Your internal being?

13 A. The investigation.

14 Q. Okay. Investigation --

15 A. Prior to this.

16 Q. There was an investigation into this incident

17 regarding Mr. Fondren?
18 A. There was an internal investigation.
19 Q. And who conducted the investigation?
20 A. Sergeant Gary Coleman and Sergeant Ray Owens.
21 Q. And you're look at something there. What are
22 you looking at?
23 (Witness complied.)

0154

1 Q. Is this the document you've produced to me?
2 A. Yes.
3 (Defendants' Exhibit 26 was marked
4 for identification.)
5 Q. This is Defendants' Exhibit Number 26. This
6 is a letter to you, Ms. Brackin; is that
7 correct?
8 A. Yes.
9 Q. Dated March 22, 2004?
10 A. Yes.
11 Q. From Judge Gordon, and it's notifying you of
12 an administrative investigation into a claim
13 of false arrest?
14 A. Yes.
15 Q. Brought by Theron Fondren which allegedly
16 occurred on January 1, 2004; is that correct?
17 A. Yes.
18 Q. And you were told to report to Sergeant
19 Coleman and Sergeant Owens for an
20 administrative interview, that you were
21 directed to cooperate; is that correct?
22 A. Yes.
23 Q. And so you did?

0155

1 A. Yes.
2 Q. You did report?
3 A. Yes.
4 Q. Did they ask you questions?
5 A. Yes, they did.
6 Q. Did they inform you of what the investigation
7 was about?
8 A. I'm sure they did. I don't recall everything
9 that was said.
10 Q. Do you know who else might have been
11 interviewed?
12 A. No, I don't remember.
13 Q. And do you remember the type questions they
14 asked you?

15 A. They were asking me, you know, if I said this
16 and -- and why I said it and the -- the
17 circumstances surrounding it. And I,
18 basically, you know -- I did not tell him that
19 this is what you should do. I just was
20 directing him to the city clerk's office.

21 Q. Did they ask you whether or not you had told
22 the man that he had been falsely arrested or
23 wrongfully arrested?

0156

1 A. I'm -- they could have. I don't recall. I
2 don't recall all the questions that were
3 asked.

4 Q. That a lot of it stemmed on what --

5 A. Yes.

6 Q. -- you told him?

7 A. Yes.

8 Q. Did you tell him he had been falsely
9 arrested? I'm not saying that you said it. I
10 said the nature of the questions involved,
11 what you told him and whether or not you --

12 A. Right.

13 Q. -- told him --

14 A. Correct.

15 Q. -- he had been falsely arrested or wrongly
16 arrested. And the questions stemmed around
17 whether or not you told him --

18 A. Yes.

19 Q. -- to go sue the City or file a lawsuit
20 against the City or a claim against the city;
21 is that correct?

22 A. Yes.

23 Q. And you're saying in the investigation, you

0157

1 denied saying that?

2 A. I just told him that I did not tell him, you
3 should sue the city and that what you were
4 falsely arrested. I said, this is what you
5 need to tell, as far as going to the city's
6 clerk office, this is the reason why you're
7 there, is that you were falsely arrested based
8 on his testimony, not that I said he was.

9 Q. Do you have any reason to
10 believe that -- strike that.

11 Do you know why that investigation came
12 about?

13 A. No, I do not.

14 Q. Do you know if Judge Gordon had anything to do
15 with that investigation?

16 A. I don't know. I don't -- I don't recall I --
17 if I was told.

18 Q. Do you know if Judge Gordon had anything to do
19 with the prior internal investigation that you
20 talked about involving that Ms. Ralpeje?

21 A. I think she did.

22 Q. And why do you think that?

23 A. Well, she is my department head. If there was

0158

1 a complaint made against me, I felt like as a
2 department head she should've handled that
3 within our department.

4 Q. Handled it what way?

5 A. She should have questioned me about it.

6 Q. And not get anyone else involved?

7 A. Well, I know the internal investigation was a
8 little bit harsh. I was treated like a
9 criminal, but I felt like that as she being my
10 department head, that she could have handled
11 the situation.

12 Q. And why do you think you were treated like a
13 criminal?

14 A. Well, I mean, just by the way they were
15 questioning me. It was very intimidating.

16 Q. Do you know if any others were questioned?

17 A. In the -- any others in that office?

18 Q. In Ralpeje, do you know if anybody else was
19 questioned?

20 A. I assume the others -- the people that were
21 involved in the incident were. But I -- I
22 don't for sure.

23 Q. Do you know if the Fondren situation if any

0159

1 others were questioned?

2 A. I'm sure they were, but I don't for sure. I
3 didn't never see any type of written
4 statements or any type of -- didn't get to
5 listen to any of the taped statements or
6 anything if they were. So I -- I couldn't
7 tell you for sure.

8 Q. Do you know the role of Internal Affairs and
9 when they get involved in investigations?

10 A. No.

11 Q. Do you know any other people who have been
12 interviewed by Internal Affairs?

13 A. What do you mean? In any division?

14 Q. Yeah.

15 A. I -- I don't know. I assume police officers.

16 I don't -- I don't know that for sure.

17 Q. So you don't know who Internal Affairs may
18 have ever talked to or investigated?

19 A. No. Not personal knowledge. No.

20 Q. It's just your opinion that Judge Gordon
21 should've handled the Ralpeje issue herself?

22 A. I felt like that she should have.

23 Q. Now, when you were investigated -- I mean,
0160

1 where did the interviews take place by -- I'm
2 sorry. It was Sergeant Coleman and Sergeant
3 Owens?

4 A. Second the time, yes.

5 Q. Do you know those two men?

6 A. Yes.

7 Q. You probably worked with them over in the
8 police department, didn't you?

9 A. I didn't work with them. We were -- we see
10 each other during the day. But --

11 Q. But any agreements with them for any reason?

12 A. Not to my knowledge, no.

13 Q. To your knowledge, were they just doing their
14 job when they were asking questions?

15 A. I assume they were, yes.

16 MR. JAFFREE: Let me object to the
17 question. She doesn't know
18 whether or not their job
19 involves investigating people in
20 the mayor's office or in any
21 department in the City or they
22 had a right to just interrogate
23 people in any division. I mean,

0161

1 she doesn't know that.

2 Do you?

3 MS. NELSON: Well, I'm just asking
4 her knowledge --

5 MR. JAFFREE: You said doing their
6 job.

7 Do you know if their job
8 consists of interrogations of

9 all over the city --
10 THE WITNESS: No.
11 MR. JAFFREE: -- regardless of
12 criminal matters.
13 MS. NELSON: It's my turn to her the
14 questions.

15 Q. Do they wear uniforms?

16 A. They -- I don't know if they do. I mean,
17 there were times I have seen them in uniform,
18 but as to the time --

19 Q. Well, you worked with the police department
20 for four years?

21 A. Right.

22 Q. Had you ever heard of Internal Affairs before?

23 A. I'm not sure when Internal Affairs started.

0162

1 They had not always had an Internal Affairs
2 Division.

3 Q. Was there Internal Affairs when you were
4 there?

5 A. I'm not sure. That I don't know because I
6 don't know when they started.

7 Q. So you don't know for sure.
8 Where were you -- where was the interview?

9 A. In the chief's conference room.

10 Q. And about how long did it last?

11 A. I don't know. I can't tell you how long it
12 lasted. I don't remember.

13 Q. And do you know if Sergeant Owens and/or
14 Sergeant Coleman made any recommendation to
15 the Judicial Department about what they
16 learned following the investigation into the
17 Fondren matter?

18 A. If they did, I don't recall. They didn't tell
19 me.

20 MS. NELSON: Okay. We'll take a
21 lunch break and maybe be back
22 about 1:15.
23 (Lunch recess)

0163

1 (Defendants' Exhibits 27, 28, 29
2 were marked for identification.)

3 MS. NELSON: I've marked for
4 identification, tax returns

5 Ms. Brackin brought.

6 Defendants' 27 is 2003 Alabama

7 return. Defendants' 28 is 2005
8 U.S. Tax Return. And
9 Defendants' Exhibit 29 is a 2006
10 U.S. Tax Return.

11 Q. And, Ms. Brackin, you're saying, you've
12 ordered your 2003 --

13 A. I'm --

14 Q. Wait a minute -- and 2004 U.S. tax returns?

15 A. Yes.

16 Q. And you'll provide those to me?

17 A. Yes, I will.

18 Q. And you did file those years?

19 A. Yes, I did.

20 Q. You'd be surprised people that don't
21 sometimes.

22 A. Well, that's one thing I do.

23 Q. Okay. I think before the break we had

0164

1 discussed to the Fondren matter and your
2 suspension. I think we've covered that.

3 Do you recall when Nancy Martin became
4 your supervisor?

5 A. Best of my knowledge, in the year 2004, I
6 believe.

7 Q. To your knowledge, did she have any magistrate
8 experience or court administration experience?

9 A. I knew that she had been with Legal Services
10 for a number of years, but as far as what her
11 experience was, I don't know.

12 Q. You don't know what her job was at Legal
13 Services?

14 A. No, ma'am.

15 Q. Did you, in any shape, form, or fashion, have
16 to train her as to what the magistrate duties
17 required?

18 A. She would ask me on occasion. Yes.

19 Q. Did she ever have an occasion to evaluate you?

20 A. I'm sure she did. I'm -- I'm -- I don't
21 remember.

22 Q. Again, you don't know at what point in 2004
23 she came on board?

0165

1 A. No, ma'am. It could have been maybe within
2 the first quarter or first six months of
3 2004. I'm just not -- I'm not quite sure of
4 the exact date.

5 (Defendants' Exhibit 30 was marked
6 for identification.)

7 Q. Well, let me show you what I've marked as
8 Defendants' Exhibit Number 30, which is an
9 employee evaluation. Is that something you
10 recognize?

11 A. It looks an evaluation on myself.

12 Q. Do you recognize that handwriting?

13 A. Yes.

14 Q. And whose is, to your knowledge?

15 A. To my knowledge, it looks like Nancy's.

16 Q. And I know you're flipping through it, but go
17 to the back page for me just to --

18 (Witness complied.)

19 Q. Did you sign that, Ms. Brackin?

20 A. Yes, I did.

21 Q. And do you -- it's also signed by Nancy
22 Martin, I see, as your evaluating supervisor?

23 A. Yes.

0166

1 Q. And also by Judge Gordon; is that correct?

2 A. Yes.

3 Q. And that was in about May 17th of 2004; is
4 that correct?

5 A. Yes.

6 Q. And you got a chance to comment?

7 A. Yes.

8 Q. And you concurred; is that correct?

9 A. Yes.

10 Q. I'm not trying to testify for you.

11 Do you remember, now that you've seen
12 this, Nancy Martin reviewing this with you?

13 A. I really don't recall my -- my going over
14 this. I'm sure she did, but I don't recall
15 everything that was said.

16 Q. Now, a couple places here you were rated
17 unsatisfactory. Do you see that? First page,
18 task number ten, that very last task dealing
19 with the public. I mean, I'm just --

20 A. Yes.

21 Q. And it makes reference to your recent offense
22 that you were disciplined for regarding your
23 dealing with the defendant?

0167

1 A. Yes.

2 Q. And is it your understanding that that was the

3 Fondren incident that we recently just
4 discussed before the break?

5 A. Yes.

6 Q. To your knowledge, was Ms. Martin involved in
7 that in any way?

8 A. She was not hired when that incident
9 occurred. She was not employed.

10 Q. Okay. Now, when Ms. Martin became as your
11 supervisor, her title was court administrator;
12 am I saying that right?

13 A. To my knowledge, yes.

14 Q. Was she your immediate supervisor?

15 A. Yes.

16 Q. Do you know who hired her?

17 A. I don't know exactly who hired her, no.

18 Q. Did she, in turn, report to Judge Gordon?

19 A. I'm -- to my knowledge. I assume she was
20 since judge is our department head.

21 Q. When she came on board, do you remember who
22 the other magistrates were in the office?

23 A. Let's see. Myself, Mary Turner, Ann Baxter,

0168

1 Lavera, Eunice, Sarah. And we're talking
2 magistrates, right.

3 Q. Yes.

4 A. Valarie and Michelle Bryan. And I believe
5 that's all of them.

6 Q. Michelle Bryan?

7 A. Yes, B-R-Y-A-N.

8 Q. And do you know when Michelle was hired?

9 A. No, I don't.

10 Q. Do you know what her duties primarily were?

11 A. Well, they changed because we would rotate
12 after so long. So I'm -- we all had, you
13 know, the same duties eventually. But I'm not
14 sure what her exact assignment was.

15 Q. Do you know if she ever made errors in the
16 work that she did?

17 A. Yes.

18 Q. Now, you were telling me, physically, y'all
19 were located in the police department, and
20 then you moved here to the Civic Center.

21 A. Yeah.

22 Q. And then there was a time y'all moved again?

23 A. Yes, ma'am.

0169

1 Q. First of all, where did you move to after the
2 Civic Center?

3 A. There is a two-story building on the corner
4 of -- I believe it's Troy and North
5 St. Andrews. It's right between here and the
6 police department.

7 Q. Okay.

8 A. And we had offices on the upstairs floor, and
9 then the bottom floor, part of that, part of
10 that we had where the public would come in and
11 do their business.

12 Q. Meaning come into the --

13 A. Pay fines, if they wanted to take out a
14 warrant, that sort of thing.

15 Q. Do you know how you came to get new office
16 space?

17 A. Which location?

18 Q. When you moved to Troy and North St. Andrews.
19 When you left the Civic Center, were you
20 needing additional office space?

21 A. Yes.

22 Q. Had you been trying to get additional office
23 space?

0170

1 A. Yes. And they got -- the City leased that
2 space for us, and it was remodeled to better
3 fit us.

4 Q. Do you know if Judge Gordon was instrumental
5 in obtaining new office space for the
6 department?

7 A. I'm not -- I don't know -- I don't have any
8 knowledge of that. I don't know.

9 Q. And do you know about when it was that the
10 magistrate's office moved?

11 A. To that location?

12 Q. To that location.

13 A. No, ma'am I don't. I don't -- I know it was
14 after -- I don't remember being -- I -- I
15 started back in April of '01, and I don't
16 believe we were here at the Civic Center that
17 long before we moved over there. But I'm not
18 sure as to what date.

19 Q. Okay. Now, do you know an individual named
20 Stephen Phelps?

21 A. I don't know him.

22 Q. Do you know of him?

23 A. Of him?

0171

1 Q. Yes.

2 A. I know the name, but I don't know him.

3 Q. How do you know that name?

4 A. It was brought up in a hearing with the
5 Personnel Board.

6 Q. But you're saying you never knew of that name
7 before? Strake that.

8 Well, what kind of hearing? What kind of
9 hearing before the Personnel Board?

10 A. It was my termination hearing.

11 Q. You're not talking about your appeals
12 hearing. When you were notified that you had
13 been terminated?

14 A. The hearing that we had that I -- that I
15 appealed the judge's decision to the Personnel
16 Board. And there was a hearing.

17 Q. But before you appealed the judge's decision,
18 were you ever informed that you had committed
19 any type of major offense as it pertained to
20 Stephen Phelps?

21 A. I don't know if his name was mentioned. I
22 know that Officer Etreass with the CID division
23 questioned me about a ticket that involved

0172

1 Mary Turner. So I don't know if that's the
2 one or not. I don't -- I don't remember if
3 the name was brought up. I'm not sure. It
4 could have been, but I'm not sure.

5 Q. And to your knowledge, there was an
6 investigation going on as to certain activity
7 or conduct by Mary Turner; is that correct?

8 A. When?

9 Q. Well, you were just saying you were questioned
10 by -- I'm asking you.

11 A. Yeah. When Officer Etreass -- that's the
12 first -- that's the first I knew about it,
13 when I called over there as to what it was all
14 about because I had not know. I didn't know
15 beforehand.

16 Q. And it's your understanding that you were
17 called over because they were investigating
18 Mary Turner?

19 A. No. All I was told was to come over and that
20 Officer Etreass needed to question me about an

21 incident and that I was to cooperate with him.

22 Q. And Etress, is he with the police department?

23 A. Yes.

0173

1 Q. Is he in Internal Affairs?

2 A. No, he's not.

3 Q. He's with CID?

4 A. He was not then. I don't know if he is now.

5 Q. At the time?

6 A. At the time, he was not.

7 Q. Do you remember what he was questioning you
8 about?

9 A. He was questioning me about a ticket that
10 involved Eric Duhaime and the voiding of that
11 ticket.

12 Q. Do you know who that ticket had been written
13 to?

14 A. I'm sure he might have said the name at the
15 time, but I don't remember the name that
16 was -- I mean, I do know now, but not at the
17 time that he was questioning me.

18 Q. You know now it was Stephen Phelps?

19 A. Yes.

20 Q. Do you know Stephen Phelps' brother, Bradley
21 Phelps?

22 A. I don't know him. I don't recall that name
23 and my dealings with him.

0174

1 Q. To your knowledge, did Mary Turner know them?

2 A. After the fact --

3 Q. You learned?

4 A. -- I learned that she did.

5 Q. And you've also learned after the fact that
6 Mary Turner was being investigated and charged
7 with a criminal offense involving those two
8 individuals, aren't you?

9 MR. JAFFREE: Is that a question?

10 A. I'm sorry.

11 MR. JAFFREE: You asked her if she
12 also knew that Mary Turner --

13 MS. NELSON: I asked her if she
14 knows that Mary Turner was
15 charged with a criminal offense
16 involving Stephen Phelps and
17 Bradley Phelps.

18 A. I know that after the fact that -- I know now

19 that she was charged, but I don't know the
20 full extent of what it was. I mean, I know
21 what the charge was, but I know that
22 that's -- I know that the grand jury changed
23 that.

0175

1 Q. What was the charge?
2 A. She was arrested for the extortion, but the
3 grand jury did not find cause for extortion.
4 Q. And how do you know that?
5 A. Because she told me.
6 Q. Okay. And what did she tell you?
7 A. She told me that the grand jury didn't find
8 cause for extortion.
9 Q. And she was free to go?
10 A. No. That they had found grounds for a
11 misdemeanor.
12 Q. And when did she tell you this?
13 A. It was not -- it was after the fact that it
14 had happened. I don't remember when.
15 Q. Now, when an officer writes a traffic ticket,
16 he brings it into the magistrate's office to
17 swear in your presence or a magistrate's
18 presence; is that correct?
19 A. That's correct.
20 Q. And that's one of the duties that you do from
21 time to time?
22 A. Yes.
23 Q. And when he brings -- he/she brings in the

0176

1 ticket to be sworn to, are you supposed to --
2 once the officer -- I mean, do you ask the
3 officer to raise their hand and swear to the
4 ticket?
5 A. Yes.
6 Q. And then tell me what transpires. I don't
7 deal in this court law.
8 A. We -- we go through the tickets, and we call
9 out the date and the name and the violation.
10 And we go through each one. And then I always
11 say at the end, "These occurred on the public
12 streets of Dothan within this jurisdiction."
13 Then I sign the transmittal and give his copy
14 back to him, the officer. He puts the ticks
15 on a transmittal form.
16 Q. An officer may be out working on a shift?

17 A. Right.

18 Q. And he may write more than one ticket?

19 A. Correct.

20 Q. And, so, say, he writes ten tickets on his

21 shift. And he has ten tickets that he's

22 supposed to bring to you; is that correct?

23 A. Yes.

0177

1 Q. And then he also brings a transmittal sheet

2 with the individual's he's given those

3 tickets; is that correct?

4 A. Yes.

5 Q. I'm saying he; it could be a she.

6 The officer fills out the transmittal

7 sheet?

8 A. Yes.

9 Q. And then comes to you or a magistrate. And

10 does he give a package, or does he give you

11 one ticket at a time? Or does he give you a

12 transmittal sheet and ten tickets?

13 A. He gives -- he gives them the transmittal

14 sheet with the tickets.

15 Q. And then tell me what the magistrate

16 is -- then asks him to swear?

17 A. Yes.

18 Q. Okay. My question is, do you take each ticket

19 at a time or do you --

20 A. Yes.

21 Q. I'm not trying to put words in your mouth.

22 A. No. That's it. You take each ticket at the

23 time, and then you sign the transmittal form.

0178

1 And you hope that those tickets match that

2 transmittal form. So, a lot of times,

3 officers don't have time for you to sit

4 there. And if you've got, let's say, a whole

5 transmittal full, which we've had before, of

6 tick, especially if they were local impact,

7 and you've got a stack of tickets, we, as

8 magistrates and the officers also, a lot of

9 times don't have time to sit there and make

10 sure that John Doe -- this ticket here is

11 listed as John Doe on this transmittal. We

12 have faith and trust in that officer that what

13 they've given us is on this transmittal form.

14 So once they're sworn to, we give them their

15 copy of the transmittal and they're on their
16 way.

17 Q. When do you actually sign the ticket?

18 A. Sometimes it's after they leave.

19 Q. But sometimes when they're there?

20 A. It depends. Because like I said, if we
21 don't -- because they've already got their
22 copy. A lot of the officers did not keep
23 their -- they don't wait for the magistrate to

0179

1 sign to get their copy. They've already torn
2 off their copies. And you once you sign the
3 transmittal and give them their copy, they're
4 gone.

5 Q. To you even bother to -- I mean, I take it,
6 you've done this a long time and you're pretty
7 meticulous about what you do. Do you -- you
8 said you might not sign every ticket right
9 there and there, but do you at least see that
10 they match up?

11 A. Sometimes and sometimes I don't. It just
12 depends if we're -- if we're busy. I've sworn
13 to tickets in the middle of a courtroom
14 before. So if you've got court going on and
15 you're busy, I don't have time to sit there
16 and match them up.

17 Q. What happens if they don't match up?

18 A. I've actually had that happen before. We've
19 had it to where I go -- if -- and that's --
20 there was a basket in what we call this huge
21 room upstairs, was like where we had our files
22 kept and where a lot of paperwork -- of
23 course, the case paperwork was kept. And

0180

1 there was a basket where you put incoming
2 tickets with their transmittals that need to
3 be keyed in. The clerks were supposed to do
4 them.

5 Sometimes they didn't get to them, because
6 there was a lot of tickets written. If we, as
7 magistrates, had time, we would grab a stack
8 and key them in. So when you go to key in
9 your tickets and you're keying them in, when
10 you get through keying them into the computer,
11 the computer assigns it a case number.

12 So you would take that case number and

13 transfer it to that transmittal sheet beside
14 the ticket information that the officer had
15 written down. So when you finish keying your
16 tickets and you look at your transmittal sheet
17 and you say, Oh, well, I've got one here that
18 didn't have a case number, so where is it?

19 Sometimes it could be that it was a DUI
20 arrest, and the magistrate on call may have
21 sworn to that and keyed that in already; or
22 they were coming to make a bond for somebody
23 in jail and the ticket had to be already keyed

0181

1 and the magistrate might not have written it
2 on the transmittal.

3 Q. You try to get to the bottom of it?

4 A. Yes.

5 Q. Try to track it down?

6 A. And there have been times, when officer -- Oh,
7 that's from another ticket book; let me see if
8 I've left it in there. And I have had some do
9 that. But they say, okay, I'll bring it by to
10 you, I forgot it. So that has happened.

11 Q. Well, do you remember one of the major
12 offenses that you were charged with prior to
13 your termination involved your handling of one
14 of those transmittal forms; are you aware of
15 that?

16 A. Yes. But that's also when the Court of Civil
17 Appeals said they could not look at that when
18 it was remanded back.

19 Q. I understand what the Court -- I've read the
20 Court's case, but I'm just asking you, you
21 were charged with that offense?

22 A. Yes.

23 Q. And it was a major offense?

0182

1 A. Yes.

2 Q. And --

3 MR. JAFFREE: You told her that it
4 was a major offense. You mean,
5 that she was charged with a
6 major offense or in terms of the
7 law is required is considered a
8 major offense.

9 Q. Are you aware that the Personnel Department
10 has -- you said that you'd gotten the employee

11 handbook?

12 A. Yes.

13 Q. And they have a table of offenses and
14 penalties that are listed in that handbook.

15 Are you familiar with that?

16 A. Yes.

17 Q. And some of them are major and some of them
18 are minor, that sort of thing?

19 A. Yes.

20 MR. JAFFREE: There's nothing about
21 an error in the entry of a
22 ticket being a major offense.

23 MS. NELSON: You'll have your chance

0183

1 to question.

2 MR. JAFFREE: You're telling this
3 witness that it's a major
4 offense and get her to agree
5 with you. And that's a legal
6 conclusion.

7 MS. NELSON: You can call it a legal
8 conclusion all you want. She's
9 charged with a major offense.

10 MR. JAFFREE: Yeah. You asked her
11 that, and that's fine. But if
12 you ask her, it was a major
13 offense, she bantered and said
14 yes, it was a major offense.

15 MS. NELSON: I'll ask that you not
16 testify for her.

17 MR. JAFFREE: I just want you to be
18 clear on your questions that
19 you're asking her, was she
20 charged with a major offense or
21 was it a major offense.

22 MS. NELSON: It was a major offense,
23 and the Court ruled it's a major

0184

1 offense.

2 MR. JAFFREE: Well, okay. I object
3 to you asking her a legal
4 conclusion.

5 (Defendants' Exhibit 31 was marked
6 for identification.)

7 Q. I'm going to show you what's marked as
8 Defendants' Exhibit 31, which is part of the

9 employee -- personnel rules and regulations.

10 Do you recognize that?

11 A. I -- I mean -- I'm sure it's in the personnel
12 rules, but I'm not familiar with it.

13 Q. Okay. But you did receive a handbook?

14 A. Yes.

15 Q. You testified to that?

16 A. Yes.

17 Q. And what I'm show you is a chart that has a --
18 at the top, there are certain offenses that
19 are called major offenses; is that correct?

20 A. Yes.

21 Q. And it's not on here, but there are certain
22 minor offenses. Are you familiar with that?

23 A. I know that there are minor offenses, yes.

0185

1 Q. And you also know that there are some
2 intolerable offenses --

3 A. Right.

4 Q. -- that the first time you commit them, you
5 can be terminated?

6 A. Correct.

7 Q. And 31 is a listing -- a chart of major
8 offenses?

9 A. Yes.

10 (Defendants' Exhibit 32 was marked
11 for identification.)

12 Q. I'm go to show you what I've marked as
13 Defendants' Exhibit 32.

14 (Brief pause)

15 Q. Have you seen that document?

16 A. Yes.

17 Q. It's actually --

18 A. Yes.

19 Q. -- several pages of the document?

20 A. Yes.

21 Q. And this document is a Notice of Determination
22 Hearing and Possible Disciplinary Action; is
23 that correct?

0186

1 A. Yes.

2 Q. And it has a notice of charges against you;
3 and on the third page, one of the charges
4 against you -- I'm looking at the second
5 paragraph -- dealt with failing to account for
6 a uniform traffic Citation. Do you see that?

7 A. I see that.
8 Q. Do you recall being charged with that?
9 A. I'm not sure what the actual charge was stated
10 as. If that's what it -- if that's what's on
11 there. I don't remember the actual charge,
12 how it was worded.
13 Q. Well, were you ever questioned about that
14 charge in relation to the handling a ticket
15 which was issued to Stephen Phelps?
16 A. Yes, I was.
17 Q. And, in fact, you had -- were you questioned
18 about your handling of the transmittal form on
19 a ticket issued to Stephen Phelps?
20 A. Yes.
21 Q. And, in fact, you had struck through and
22 voided the ticket issued to Stephen Phelps on
23 that transmittal form, didn't you?

0187

1 A. I did not --
2 MR. JAFFREE: The question was,
3 "voided the ticket?"
4 A. That is two different things.
5 MR. JAFFREE: That's a correction.
6 THE WITNESS: I know.
7 (Defendants' Exhibit 34 was marked
8 for identification.)
9 Q. This was Exhibit 2 in your Personnel hearing,
10 but I'm this as Defendants' Exhibit 34. I'm
11 show you what is a transmittal form which has
12 a signature on the bottom. Is that your
13 signature, Mr. Brackin?
14 A. Yes it is.
15 Q. Now, this is a UTC transmittal form?
16 A. Yes.
17 Q. With approximately 12 tickets on it. And this
18 was given to you by Officer Eric Duhaime.
19 A. Yes, that's the name on it.
20 Q. And on this particular transmittal form, a
21 Stephen Phelps -- the line that has Stephen
22 Phelps and the ticket number and the date
23 issued, it has been struck through and "void"

0188

1 has been written on that line. Do you see
2 that?
3 A. Yes.
4 Q. And I believe you've testified previously in

5 your appeal hearing under oath that you struck
6 that line through there; is that correct?

7 A. Yes.

8 Q. And you're telling me here today, you did
9 strike that line through the?

10 A. Based on the officer's --

11 Q. I didn't ask you why yet.

12 A. Okay.

13 Q. And you wrote the word "void" --

14 A. Yes, I did.

15 Q. -- under Case Number?

16 A. Yes, I did.

17 Q. And you do not deny doing that?

18 A. No.

19 Q. Had Officer Duhaime brought you -- with this
20 transmittal form, did he bring you these 12
21 tickets that are listed on this form?

22 A. I did not have that ticket. No, ma'am.

23 Q. How do you know you did not have that ticket?

0189

1 A. Because when I went to key it into the
2 computer, I did not have it because I paged
3 him and asked him why it wasn't with the
4 transmittal. And he said he voided it.

5 Q. Now, when you signed it, you had -- at the
6 bottom that you signed this, were you
7 certifying that you had received all these
8 tickets, didn't you?

9 A. Yes. And I did not verify that at the time
10 the officer was there with the tickets that he
11 turned into me.

12 Q. And once this is signed by you, you're
13 certifying that you had these tickets and they
14 had been sworn to and, therefore, they will be
15 processed in the system, so to speak?

16 A. Yes.

17 Q. And so when you struck through Mr. Phelps name
18 and wrote "void" on there, didn't that have
19 the effect of voiding the ticket against
20 Mr. Phelps?

21 A. No.

22 Q. And why is that?

23 A. Because that's just a form that we keep to

0190

1 where we have what that officer did to put the
2 case on that. The actual ticket was voided by

3 the officer.
4 Q. And how do you know that?
5 A. Because he told me that.
6 Q. And being the thorough magistrate you are,
7 just took his word on that and you just
8 wrote --
9 A. An officer has that right to do that.
10 Q. Have you ever written void on a UTC
11 transmittal form before ever?
12 A. I don't know. I've been doing this for a
13 number of years. It's possible.
14 Q. You never have, have you?
15 A. I don't know. It's possible, because if I
16 don't have that ticket when I go to key it in
17 or if there's an item left without a case
18 number, I called that officer to find out what
19 happened.
20 Q. And if he just says it void, it's void?
21 A. I don't -- I don't care if he voids it or
22 nor. That's not my duty to question him why
23 he voided it. He has a right to void a
0191
1 traffic ticket.
2 Q. And once he's voided it, it would never get to
3 your attention at this UTC level, would it?
4 A. He might have forgotten to strike it off there
5 whenever he was swearing to the tickets. I
6 don't know that.
7 Q. Isn't it true that Mary Turner called you up
8 and told you to void that?
9 A. No, ma'am. No, ma'am. No, ma'am, she did
10 not. In fact, if you'll look at the ticket, I
11 didn't even sign it as swearing to it.
12 Q. I thought the ticket had been voided. If it's
13 been voided, where is the ticket?
14 A. The officer has the ticket.
15 Q. And if the officer voids the ticket, what's he
16 supposed to do to it?
17 A. I don't know. I don't know what their policy
18 is on their original tickets.
19 Q. Would he not write "void" on the ticket?
20 A. I don't know. I don't -- each officer is
21 different. I don't know if that's what their
22 policy and procedure is or not. I don't know.
23 Q. And did he tell you why he voided the ticket?
0192

1 A. No, he did not.
2 Q. Did Mary Turner ask him to void the ticket?
3 A. That I can't -- I don't have any knowledge of.
4 I don't know. All I know is that I went to
5 key that ticket -- or I went to key the
6 tickets in, and that was left without a case
7 number. And I paged that officer, and that's
8 what the officer told me he did with the
9 ticket. So I just merely stated on the
10 transmittal what the officer said happened to
11 that particular ticket.
12 Q. He didn't tell you that Mary Turner told him
13 to pull that ticket and turn them all back in?
14 A. No, he did not. I don't question officers why
15 they void something. That's not up to me to
16 do.
17 Q. So if they voided something, you'd never even
18 see it, would you?
19 A. No.
20 Q. So you saw this one, so it hadn't been voided?
21 A. No, I didn't see that one. I didn't see that
22 one.

23 MR. JAFFREE: Let me object. You're
0193

1 turning this into
2 cross-examination like --
3 MS. NELSON: Well, it is
4 cross-examination. What do you
5 think I'm doing here?
6 MR. JAFFREE: It's a deposition to
7 find out information, and you
8 won't take your answer for it.
9 You keep badgering her. She's
10 telling you the same answers,
11 and you're trying to get an
12 answer that you want.
13 MS. NELSON: I'm just trying to get
14 the truth.
15 MR. JAFFREE: You're harassing the
16 witness here.
17 THE WITNESS: Ma'am, I am telling
18 the truth. I told it then, and
19 I'm telling it now.
20 (Defendants' Exhibit 35 was marked
21 for identification.)
22 Q. I want to show you what's Defendants' Exhibit

23 Number 35. This is a copy of the ticket to
0194

1 Stephen Phelps, written by Eric Duhaime. Do
2 you "void" on there anywhere?

3 A. No, ma'am.

4 Q. Do you think that Officer Duhaime is going to
5 support your testimony, that he told you to
6 void the ticket -- that he had voided the
7 ticket?

8 A. I don't know what Officer Duhaime would tell
9 you. I believe he testified at my hearing
10 that he voided the ticket.

11 MR. JAFFREE: I think that was
12 testimony. At best, you've got
13 a fact issue here. May be left
14 to a jury to determine who is
15 telling the truth.

16 MS. NELSON: Well, according to you,
17 we cant count this anyway.

18 MR. JAFFREE: According to me or
19 according to her testimony.

20 MS. NELSON: According to you.

21 MR. JAFFREE: I'm not quite sure the
22 status of that, but I'm not --

23 Q. You were charged with this offense? Excuse
0195

1 me. You were charged with a major offense of
2 violating a Dothan personnel rule and
3 regulation in the handling of that ticket; is
4 that correct?

5 A. Yes.

6 Q. That you 3-42(6); is that correct?

7 A. Yes.

8 Q. And you talked several times about the
9 Appellate Court of Appeals. I think I saw
10 you've got that opinion, but I've got it
11 here. Have you read that opinion?

12 A. Yes. It's been awhile back, but I read
13 it.

14 (Defendants' Exhibit 36 was
15 marked for identification.)

16 Q. I've probably marked this one up but --

17 MR. JAFFREE: Let me, for the
18 Record --

19 MS. NELSON: I'm just going to
20 introduce this.

21 MR. JAFFREE: I'm going to object to
22 any questions about that Court
23 of Appeal's opinion. It's

0196

1 not relevant. It's not even the
2 same parties to the case, and
3 it's simply legal conclusions
4 judicial record.

5 MS. NELSON: It's very relevant.

6 It's the law of the case as it
7 pertains to --

8 MR. JAFFREE: I don't think it's the
9 law of the case in the federal
10 court.

11 MS. NELSON: Well, it as, at least,
12 as to the charges against her.

13 So I mean, I just like --

14 Q. You have read this. This is the Appellate
15 Court's ruling on --

16 A. Yes.

17 Q. -- on your appeal of your termination before
18 the Dothan Personnel Board up through the
19 circuit court; is that correct?

20 A. Yes.

21 Q. I may have marked on this a little bit. I
22 would sort of like to give a clean copy.

23 But were you ever questioned by -- you

0197

1 mentioned Officer Etress. Were you ever
2 questioned by the Department of Internal
3 Affairs as to the handling of the Stephen
4 Phelps ticket?

5 A. I don't think so. I mean, I don't -- I don't
6 recall that. I think it was just Officer
7 Etress that questioned me.

8 Q. Excuse me. Were you aware that -- do you know
9 if Eric Duhaime was questioned?

10 A. I don't know.

11 Q. Do you know if he was disciplined in any way?

12 A. I'm not sure. I think there was something
13 about it mentioned in my hearing, but I'm not
14 sure what it was or if he was. I don't know.

15 Q. Were you ever questioned by Internal Affairs
16 about Mary Turner?

17 A. About what? About the ticket?

18 Q. About --

19 A. About this ticket?

20 Q. About that ticket, about any other issues
21 regarding Mary Turner?

22 A. I haven't -- I don't believe I was internally
23 investigated about the Stephen Phelps ticket.

0198

1 But when was placed on administrative leave, I
2 don't know that Sergeant Keith Gray came over
3 to our office and said that Rickey Stokes or
4 somebody like that had found out about Mary's
5 suspension and had got -- I don't know if it
6 went to the media or where it was went. But
7 he said it had to have been somebody from our
8 office. So he started questioning us
9 individually, and that if we didn't cooperate,
10 that we could -- if he thought we were lying,
11 he could give us a lie detector. And if we
12 refused, we could be guilty of
13 insubordination.

14 Q. And who said this to you?

15 A. Sergeant Keith Gray.

16 Q. Within anybody else present?

17 A. No. Just he and I.

18 Q. At that time, Mary Turner had been suspended?

19 A. Yes.

20 Q. Do you know what she had been suspended for?

21 A. The only thing that we were told, Judge Gordon
22 told us that it had something to do with a
23 traffic ticket. And the only time I knew

0199

1 exactly what it was whenever Officer Etrass
2 interviewed or questioned me. I didn't even
3 know who was assigned to her stuff.

4 Q. Were you ever present in court when a Brady
5 (sic) Phelps was called to court and he
6 appeared with his lawyer; and they raised the
7 question as to whether Mary Turner was
8 supposed to have taken care of his ticket?

9 A. I don't recall.

10 Q. You've never heard that?

11 MR. JAFFREE: The question was, were
12 you present in court?

13 A. I don't recall if I was present in court at
14 the time. I've worked court several times, so
15 I couldn't tell you.

16 Q. Was that discussed with Mr. Phelps came to

17 court and he and his lawyer made that known?

18 A. I don't have -- I don't have any recollection
19 of that. I couldn't tell you if I was working
20 court or not.

21 Q. I didn't say working court?

22 A. You asked me if I was present in court when
23 that happened.

0200

1 Q. Besides being present in court, was it
2 discussed among the magistrates that Brady
3 Phelps and come to court and raised that in
4 open court, whether Brady or his lawyer raised
5 it in open court that Mary Turner was supposed
6 to have taken care of his ticket?

7 A. I don't recall that. I didn't know much about
8 any of that until we started -- that stuff
9 started coming out in my hearing.

10 Q. And you didn't know that that had anything to
11 do with the reason that Mary Turner had been
12 suspended and terminated?

13 A. I did when Officer Etress questioned me.

14 Q. But prior to that --

15 A. No.

16 Q. -- you had no knowledge --

17 A. No, ma'am.

18 Q. -- of the Brady Phelps issue?

19 A. No.

20 The Bradley Phelps or Brady Phelps?

21 Q. Bradley. Bradley Phelps?

22 A. No, I don't -- no.

23 Q. If I've been saying Brady, I meant Bradley.

0201

1 So do you have any knowledge of Bradley
2 Phelps?

3 A. Not prior to her suspension because I found
4 all of that whenever we were going through the
5 hearings and stuff.

6 Q. Do you know Ashton Ott?

7 A. Yes.

8 Q. What's your relationship with Ashton Ott?

9 A. My relationship? I don't have a relationship
10 with her.

11 Q. How do you know her?

12 A. She was our city prosecutor for a while -- for
13 a time period.

14 Q. Did you interact with her when you were a

15 magistrate?

16 A. Yes.

17 Q. And how did the two of you get along?

18 A. Sometimes, we were okay. And then there were
19 times where I think she overstepped her
20 boundaries with telling me how to do my job.

21 Q. In what way?

22 A. Well, there was instances when she told me
23 that I shouldn't have issued a warrant or, you

0202

1 know, how to do something and not subpoena
2 this person or not to subpoena that person if
3 a case was set for trial.

4 Q. And you disagreed with her?

5 A. Well, if a case is set to trial, I'm supposed
6 to subpoena the witnesses and make sure that
7 the victim and witnesses are in court.

8 Q. So you did disagree with her?

9 A. I disagreed with some of the things, but I
10 didn't -- not everything.

11 Q. Did you report to her in any way?

12 A. Did I report to her?

13 Q. In a supervisory role?

14 A. I don't know what you -- what you -- what do
15 you mean?

16 Q. I mean, she was not your supervisor, was she?

17 A. No. No, no, no. No.

18 Q. Do you know if she ever made a complaint about
19 you to anyone?

20 A. I don't know if she did.

21 Q. Did you ever complain to anyone about her?

22 A. I complained to a Donna about an incident that
23 happened in the court room.

0203

1 Q. Donna Nicholson?

2 A. Nicholson.

3 Q. Anybody else?

4 A. I don't -- not that I can recall.

5 Q. Do you know how she and Nancy Martin got
6 along?

7 A. I don't know. I don't know.

8 Q. How often were you in the courtroom on a
9 weekly basis?

10 A. I wasn't in the courtroom that much because my
11 duties were more centered around working in
12 the office than working court. I did do

13 prisoners with Sarah, but that was whenever,
14 you know, we didn't hardly have anybody in the
15 courtroom other than the prisoners. Like we
16 had a public defender and a city prosecutor
17 and, of course, the judge. But most of the
18 time --

19 Q. Ashton Ott was the city prosecutor at one
20 time?

21 A. She was one of them. She was not the only
22 one, but she was one of them.

23 Q. Who were the others?

0204

1 A. Kevan Kelly was one.

2 Q. The people with the city attorney's office?

3 A. Yes.

4 Q. I know I'm jumping around, but you said you
5 really wasn't in the courtroom that much.

6 Which magistrates would generally be in
7 the courtroom more than others?

8 A. It depended on if they were assigned that.
9 Like I said, we kind of swapped around duties,
10 and part of that would be working court. Of
11 course, if you -- the more you worked court,
12 the less actual job -- other job duties that
13 you had inside the office because you were in
14 court more. So you wouldn't have that much
15 time to spend on working on your other
16 assigned duties. If some did have other
17 things, there were small things. But --

18 Q. That's what I'm trying to get a handle on:
19 Who was in the courtroom more -- which
20 magistrates were in the courtroom more than
21 others?

22 A. Well, we had Valarie Salvage, Michelle Bryan,
23 Eunice, Lavera, Sarah, and myself. I didn't

0205

1 work court that much, but I did do -- I did do
2 some.

3 Q. Some?

4 A. And then the other person would be in the
5 fines room where they collected the moneys
6 from court, so it just depended.

7 Q. But you're saying there was like a rotation
8 system that everybody would have an
9 opportunity to learn --

10 A. I think everybody had --

11 Q. -- work court?

12 A. And was proficient working in the courtroom.

13 Q. And some people, though, would rotate and work
14 these other non-courtroom duties that you're
15 talking about.

16 A. Right.

17 Q. Back to Mary Turner. There was a time period
18 where she was placed on leave. Were you aware
19 of that?

20 A. Yes.

21 Q. Administrative leave. And she was ultimately
22 terminated; were you aware of that?

23 A. Yes.

0206

1 Q. And how were you aware of that?

2 A. We all knew that she was fired, I mean, when
3 she didn't show up for work. But she also
4 told me that she was fired.

5 Q. And when did she tell you that?

6 A. I'm sure it was shortly afterwards. I'm
7 not -- I don't remember the exact date.

8 Q. And you said, the two of you were friends,
9 went to church together; is that correct?

10 A. Yes, we were close friends.

11 Q. Are you still close friends?

12 A. Yes, we are.

13 Q. Did you ever -- I asked about testimony. Did
14 you ever testify in any hearing that she was
15 involved in -- criminal proceeding that she
16 was involved in?

17 A. I didn't -- I didn't testify in a criminal
18 proceeding. I'm not -- I don't think I
19 testified in her personnel hearing. I think I
20 was listed as a witness, but I don't think I
21 was ever called. I don't recall that.

22 Q. Do you anticipate her being a witness on your
23 behalf in this case -- your case?

0207

1 A. No.

2 Q. And why is that?

3 A. I just --

4 MR. JAFFREE: Well, she don't make
5 the decision.

6 MS. NELSON: I'm just asking her
7 factually.

8 Q. To your knowledge.

9 MR. JAFFREE: You're talking about
10 legal strategy.

11 Q. Does Mary Turner have knowledge about facts
12 that support your case?

13 A. I don't know if she does or not.

14 Q. Well, she's listed in your initial disclosure,
15 so I have a right to ask what you think Mary
16 Turner knows about --

17 MR. JAFFREE: You're asking if she's
18 going to call her as a witness.

19 That's not her prerogative.

20 Q. Well, what does Mary Turner -- what knowledge
21 does she have about the allegations in your
22 case, this case that I'm questioning you
23 about?

0208

1 A. I don't know if she has any. I don't know
2 what Mary knows about this.

3 Q. You were telling me earlier that Officer
4 Etress came over to the magistrate's office
5 to -- maybe I'm getting two things confused.
6 You said there was someone came to the
7 magistrate's office because there was some
8 concern that some information had been
9 released about Mary Turner?

10 A. Yes.

11 Q. Tell me what you told --

12 A. Sergeant Keith Gray.

13 Q. Sergeant Gray?

14 A. Yes.

15 Q. And do you know how it was that Sergeant Gray
16 came to come talk to the group?

17 A. I don't know who advised him. No.

18 Q. To your knowledge, did -- do you have any
19 knowledge that Judge Gordon was in any way
20 involved in that?

21 A. Well, she was in on the -- whenever we had a
22 meeting with everybody. She was the one
23 that -- that told us that Mary was placed on

0209

1 leave.

2 Q. That was a different time than when Keith Gray
3 came?

4 A. Yes.

5 Q. And Judge Gordon is the department head; is
6 that correct?

7 A. Yes.

8 Q. And what did Judge Gordon say to you and to
9 the group when she made a statement about
10 Mary?

11 A. She just said that Mary was on leave and she
12 didn't know all the particulars but she did
13 know it involved something with a traffic
14 ticket.

15 Q. What else did she say?

16 A. She just said that we were not supposed to go
17 in her office, and she assigned me Mary job
18 duties, to do the AWs. And she said, we were
19 not to have any contact with Mary Turner.

20 MR. JAFFREE: Can we go off the

21 Record?

22 (Brief recess)

23 Q. You were instructed not to have any contact

0210

1 with Mary Turner; is that correct?

2 A. That's correct.

3 Q. And all the magistrates were present?

4 A. Yes.

5 Q. Did anybody ask any questions, what does this
6 mean?

7 A. I don't -- I don't remember if they did. They
8 might have, but I don't -- I don't know who it
9 was or what the question would have been.

10 Q. And do you remember when that meeting was?

11 A. No. I don't -- I don't remember the date.

12 Q. Did you have any conversations with Mary
13 Turner?

14 A. Yes.

15 Q. And how many conversations did you have with
16 her?

17 A. I conversated with her at church. I was given
18 her assigned duties. And one particular duty
19 that she had was doing the show-cause
20 hearings. And I needed the form that she used
21 because there was quite a few that needed to
22 be done.

23 And I asked Michelle Sellers if she could

0211

1 get that for me, that it was on her desktop on
2 her computer. And she said, no, that we
3 couldn't go in her office.

4 And I said, well, can you get IT to

5 retrieve it and send it to me on my computer.

6 And she said, no.

7 And I said, well, I need that form.

8 And she said, well, you'll just have to
9 find a case that has it.

10 And I explained to her, that's very
11 difficult to do. It's kind of like finding a
12 needle in a haystack. You'd have to go
13 through every single case.

14 Q. And what form were you looking for?

15 A. It's a show-cause letter, the form that we for
16 the show-cause hearings.

17 Q. And so you picked up the phone and called?

18 A. So I called her and I asked her.

19 And she said that that was something that
20 Bettye King had made up when she was there,
21 and the only -- the original was on her
22 desktop on her PC.

23 And I said, okay, thank you. And that was

0212

1 that.

2 Q. And did you ever go to the judge and ask her
3 about whether it would be okay for you to call
4 Mary Turner?

5 A. No, I didn't.

6 Q. Mary Turner -- excuse me -- Judge Gordon said
7 nothing about calling Mary Turner if you
8 needed her help on how to process something,
9 did she?

10 A. No.

11 Q. She said, Do not talk to Mary Turner, period?

12 A. Well, I don't -- I don't think Judge Gordon
13 could say whenever I could or could not talk
14 to her when I was not on duty. So, you know,
15 I mean, I have Sunday School with this woman,
16 and I see her. We associate together. And
17 I -- you know, I spoke to her at church.

18 Q. And how many times did you speak to her at
19 church while she was suspended?

20 A. I don't know. I don't know. It -- you know,
21 we were there on Sunday and Wednesday. So
22 I -- I couldn't tell you.

23 Q. Does she go every Sunday and Wednesday?

0213

1 A. She tries to.

2 Q. Do you go every Sunday and Wednesday?

3 A. I try to unless I'm sick or out of town.

4 Q. And you earlier testified, you knew she was
5 terminated because she told you; is that
6 correct?

7 A. Yes.

8 Q. Did you talk to her about the reason she was
9 terminated?

10 A. I'm sure we talked about it, but I don't
11 remember if she went into a lot of detail. I
12 don't know.

13 Q. And to your knowledge, did anyone else call
14 Mary Turner up and ask her about forms or how
15 to process something?

16 A. Not to my knowledge.

17 Q. I think you later said that subsequently --
18 Let me this: Did you ever get your
19 show-cause letter?

20 A. No.

21 Q. Did you find the form?

22 A. No.

23 Q. Do you know Bettye King?

0214

1 A. She was not there anymore.

2 Q. I know. But do you know how you could reach
3 her?

4 A. I didn't know --

5 Q. Did you ask Michelle?

6 A. I asked -- I didn't ask Michelle how to reach
7 Bettye King. Michelle didn't offer to call
8 Bettye King.

9 Q. Did you ask the judge?

10 A. No.

11 Q. Did you ask the judge about the show-cause
12 letter?

13 A. No.

14 Q. You were earlier testifying that Sergeant Gray
15 came to the magistrate's office to inquire
16 about who had released some information about
17 Mary Turner?

18 A. Yes.

19 Q. That's my terms.

20 Did he talk to the group as a whole?

21 A. I think he did. I'm not -- I'm not positive
22 on that. I kind of -- I -- if I remember
23 correctly, he did. But I do know that he

0215

1 talked to each one of us individually or was
2 supposed to. I know he talked to me.

3 Q. To your knowledge, did he talk to others?

4 A. I know that he talked to Sarah Fowler.

5 Q. And how do you know that?

6 A. Because I saw her going in there.

7 Q. Do you know of anybody else he talked to?

8 A. Not a personal knowledge, no.

9 Q. But you had reason to believe he talked --

10 A. I had reason to believe he talked to
11 everybody.

12 Q. And what's your understanding of what he was
13 looking into?

14 A. He was trying to find out who told the
15 information about Mary's investigation to the
16 public or to this -- I don't know if it was
17 Rickey Stokes or some other person. But they
18 wanted to know. They said that that
19 information had to come from our office, and
20 he was going to figure out which one of us did
21 it.

22 Q. Who was Rickey Stokes?

23 A. He is a bondsman.

0216

1 Q. Does he do anything else?

2 A. I don't know.

3 Q. Do you ever listen to the radio?

4 A. He doesn't --

5 Q. Does he have any other kind of job?

6 A. I don't know. He doesn't have a radio
7 program.

8 Q. Ever heard him on talk radio?

9 A. I've heard him years ago on talk radio, but I
10 don't listen to that. So I don't know. I
11 mean, I couldn't tell you if he still does
12 that, if that's your question. I know he did
13 years ago.

14 Q. Does he have --

15 A. But I don't know if he still does.

16 Q. Excuse me. Does he have any type of web site?

17 A. Oh, he does. He does have a web site. That's
18 correct.

19 Q. And what's his web site?

20 A. It's Rickey Stokes News dot com.

21 Q. Is this a job for him?

22 A. I don't know. I don't know if he -- I don't

23 know if it's anybody elses, and he just does
0217

1 it for them. I don't know.

2 Q. And he's a bondsman; is that what you said?

3 A. Yes.

4 Q. What's the name of his bonding company?

5 A. I think it's A-Advantage bonding.

6 Q. Did you know him as a bondsman?

7 A. Yes.

8 Q. Has he still got this bonding company?

9 A. I assume.

10 Q. Tell me what kind of interaction you have with
11 the bonding company as a magistrate?

12 A. Oh, if there is question about a bond, if
13 they're going to make somebody's bond or how
14 much that person's bond is. If they had
15 somebody on bond and they failed to show up in
16 court, they would call to maybe get or apply
17 for a bondsman's process.

18 Q. A what process?

19 A. Bondsman's process.

20 We work with them. They'll be in the
21 courtroom to make sure their defendant show up
22 in court.

23 Q. As a magistrate, do you have any say in who a
0218

1 defendant selects as a bondsman if they're
2 arrested?

3 A. No. We tell them to go to the phone book, or
4 there is a listing at the jail.

5 Q. Does that occur with you or at the jail?

6 A. Well, sometimes, it's like if you've got a
7 person that is trying to get a person out of
8 jail, they'll come to our office if we're
9 opened and find out, what does it take for
10 them to get out of jail. And we'll tell them
11 what the bond is and that sort of thing, and
12 we'll tell them their options of making those
13 bonds.

14 Q. Okay. Now, to your knowledge, had -- when
15 Sergeant Gray was over there interviewing, he
16 was trying to determine who had revealed some
17 information about Mary Turner?

18 A. Correct.

19 Q. And, apparently, some information -- was the
20 information published through Rickey Stokes?

21 A. I learned after the fact that it was on his
22 web site. I know Ann Baxter had it pulled up
23 at her station, and she had asked if we had

0219

1 seen it.

2 Q. And was this before Sergeant Gray came in?

3 A. I don't know. I couldn't tell you. I did not
4 know that Sergeant Gray or anybody was
5 assigned to that until we had read that on
6 Rickey Stokes, and then we found -- I found
7 out what it was about whenever Officer Etrass
8 questioned me. So we did not know other than
9 what Judge Gordon had told us as to why Mary
10 was placed on suspension.

11 Q. Did you release any information to the news or
12 Rickey Stokes about Mary Turner?

13 A. No, I did not.

14 Q. Do you know of anyone in the office that did?

15 A. No, I do not.

16 Q. You're saying that's what Sergeant Gray was
17 investigating?

18 A. That's what he was asking me.

19 Q. You don't know what he asked --

20 A. I don't know what he asked everybody else.

21 Q. In the course of that investigation, did he
22 ask you if you had released any information?

23 A. I don't know. He may have. It was taped. So

0220

1 you --

2 Q. Did he ask you if you talked to Mary Turner?

3 A. Not the first time he questioned me. I
4 believe it was the second time he questioned
5 me he asked me.

6 Q. I'm getting confused. He's questioned you how
7 many times?

8 A. Questioned me twice.

9 Q. Twice. And do you know the dates that he
10 questioned you?

11 A. I know that it was -- I believe it was the
12 next day that he questioned me the second time
13 after the first time he questioned me, but I
14 don't remember the dates -- exact dates.

15 Q. And was this done in your office or
16 magistrate's office?

17 A. It was done in the magistrate's office.

18 Q. Did you have an office?

19 A. Yes, I did.

20 Q. And he came to your office?

21 A. No. He was set up in the -- in a front room

22 that we had just used for general purposes.

23 It was not an office of anybody.

0221

1 Q. Was anybody else present other than yourself
2 and Sergeant Gray?

3 A. No.

4 Q. And the first time he was over there, anybody
5 present besides yourself and Sergeant Gray?

6 A. No.

7 Q. To your knowledge, when he came back the
8 second time, did he talk to anybody else
9 besides yourself?

10 A. I don't know.

11 Q. You don't know?

12 A. No.

13 Q. And you're saying, you remember the second
14 time he asked you about --

15 A. I believe that was when he asked me if I had
16 contacted Mary Turner.

17 Q. And what did you tell him?

18 A. I told him, yes.

19 Q. And did you describe the circumstances that
20 you had talked to her?

21 A. I probably it, but I don't remember exactly
22 everything that was said.

23 Q. And do you remember when it was that you

0222

1 talked to Sergeant Gray the first and/or the
2 second time?

3 A. I believe I've already told you, no, I don't.

4 I mean, I don't -- I don't remember the dates.

5 Q. Do you know if he made any recommendation
6 about your employment or whether you had
7 violated any rule or protocol?

8 A. He didn't tell me.

9 Q. You don't know?

10 A. I don't -- no. I don't know.

11 Q. And after that, were you charged with a major
12 offense for talking to Mary Turner when you
13 had been instructed not to?

14 A. Yes.

15 Q. And you were charged with insubordination; is
16 that correct?

17 A. That's correct.

18 Q. And I've showed you this Defendants' Exhibit
19 32 that we talked about with the Stephen
20 Phelps ticket. Well, in addition to the
21 Stephen Phelps -- what I'm calling the Stephen
22 Phelps ticket we've just discussed, and the
23 writing through the transmittal sheet and

0223

1 writing "void" on there. You were also, at
2 that same time, you were also charged with a
3 violation of Personnel Rule 3-42(14),
4 insubordination?

5 A. That's not in addition to. That is one of
6 two. You had stated that first and then the
7 transmittal, and then you said, in addition to
8 this.

9 Q. Well, I mean, I apologize. Strike that.

10 A. I'm sorry.

11 Q. On the same date you were given notice of two
12 different charges against you?

13 A. Correct.

14 Q. Two different major offenses against you?

15 A. Correct.

16 Q. Maybe I said it confusingly. One had to do
17 with the Stephen Phelps matter that we've
18 talked about?

19 A. Correct.

20 Q. The transmittal. And then the second one had
21 to do with the insubordination?

22 A. Correct.

23 Q. And the charge was that you had willfully, by

0224

1 your own admission -- and I'm reading from the
2 charge now.

3 A. Yes.

4 Q. "That you willfully, by your own admission,
5 disobeyed a directive from your department
6 head to refrain from any contact with Mary
7 Turner during the police department
8 investigation of Mrs. Turner. You admittedly
9 understood this directive and chose to
10 disregard it by calling Ms. Turner. This is a
11 major offense."

12 That's what you were charged with?

13 A. Correct.

14 Q. Were you told by -- I'm backing up a little

15 bit.

16 When Judge Gordon met with the magistrates
17 and everybody was told to refrain from
18 contacting Mary Turner, were y'all told that a
19 police department investigation was going
20 on -- would be going on?

21 A. I'm not sure. I know that the judge said that
22 there was an investigation.

23 Q. An investigation?

0225

1 A. But I don't -- I mean, she could have used
2 "police," but I don't recall the exact words.
3 (Defendant's Exhibit 33 was marked
4 for identification.)

5 Q. And I'm showing you Defendants' Exhibit 33.
6 You were placed on leave; is that correct?

7 A. Yes.

8 Q. As reflected on this document?

9 A. Yes.

10 (Defendants' Exhibit 37 was marked
11 for identification.)

12 Q. And then, Ms. Brackin, you were actually then
13 served with this Notice of Decision to
14 Terminate, which I've marked as Defendants'
15 Exhibit 37?

16 A. Yes.

17 Q. So you did receive a copy of it?

18 A. Yes.

19 Q. And you signed it; is that correct?

20 A. Yes, I did.

21 Q. And then you did file a -- you appealed your
22 termination; is that correct?

23 A. Yes, I did.

0226

1 Q. And we've talked a little bit about that. You
2 had a hearing before the Personnel Board, and
3 they basically upheld your termination; is
4 that correct?

5 A. Yes.

6 (Defendants' Exhibit 38 was marked
7 for identification.)

8 Q. And I'm going to show you what I've marked as
9 Defendants' Exhibit 38. Have you seen that?

10 A. Yes.

11 Q. A copy of the board's decision --

12 A. Yes.

- 13 Q. -- upholding termination?
14 It's dated August 19th, 2005?
15 A. Yes.
16 Q. And then you appealed again to the circuit
17 court?
18 A. Yes, I did.
19 Q. And Judge White reversed the decision?
20 A. Yes, he did.
21 Q. Did he issue an opinion or just --
22 A. Yes, he did.
23 Q. -- or a reversal?

0227

- 1 A. He issued an opinion.
2 Q. Do you have a copy of that?
3 A. I don't know if I've got that with me or not.
4 THE WITNESS: Did you bring it?
5 MR. JAFFREE: I don't have a copy of
6 it with me.
7 Q. That's okay. And the case went up to the
8 Appellate Court. It was remanded back down to
9 the Personnel Board; is that your
10 understanding?
11 A. Yes.
12 Q. And then the Personnel Board upheld your
13 termination again; is that correct?
14 A. Yes. But they had to look at different --
15 they could not look at the totality of the
16 charges. They only had to look at a certain
17 part, was my interpretation.
18 Q. For instance, they could not look at the --
19 again, I'm not trying to draw a legal
20 conclusion. I'm just trying to get your
21 understanding.
22 A totality. Do you know which part they
23 were not supposed to look at?

0228

- 1 A. Yes, I do.
2 Q. Which part was that?
3 A. They were not supposed to take into
4 consideration the transmittal situation.
5 Q. Okay. What I'm calling the Stephen Phelps
6 transmittal form?
7 A. Yes.
8 (Defendant's Exhibit 39 was marked
9 for identification.)
10 Q. I'm showing you Defendants' 39, is another

11 board decision, dated January 8th, 2007.

12 Have you seen a copy of that?

13 A. I don't know if I got a copy of that or not.

14 THE WITNESS: Did you -- you might
15 not have sent me that.

16 A. I'm sure I did. I might have. They probably
17 sent one to me and my attorney, but I'm not
18 sure. But -- but I'm aware of it.

19 Q. Now, we talked -- you've held two jobs since
20 you left the City; is that correct, the City
21 of Headland?

22 A. Yes.

23 Q. And the city of --

0229

1 A. Newton.

2 Q. The Town of Newton.

3 You filed a charge of discrimination with
4 the Equal Employment Opportunity Commission;
5 is that correct?

6 A. Yes.

7 (Defendants' Exhibit 40 was marked
8 for identification.)

9 Q. And let me show you a copy of what appears to
10 be the charges that you filed with the Equal
11 Employment Opportunity Commission. Just take
12 a minute and see if you can just identify that
13 for me if that's what that document, Exhibit
14 40, is.

15 MR. JAFFREE: Before you answer, let
16 me see.

17 Q. Ms. Brackin, Defendants' Exhibit 40, that's
18 your Charge of Discrimination to the EEOC
19 against the City of Dothan and Judge Gordon;
20 is that correct?

21 A. Yes.

22 Q. And you have signed this; is that correct?

23 A. Yes.

0230

1 Q. I want to go over some of your allegations and
2 ask you some questions about.

3 A. Okay.

4 Q. You stated that when you returned as a
5 magistrate in April of 2001 -- excuse
6 me -- prior to your transfer to the
7 magistrate's job in 2001, that Judge Gordon
8 who is black had been appointed as municipal

9 judge. So you knew she was in the office and
10 would be your supervisor, head of department,
11 when you applied for that job; is that
12 correct?

13 A. That's correct.

14 Q. And you said, "After her hire" -- talking
15 about Judge Gordon -- "she started to make
16 race-based decisions. She bumped two
17 prospective black magistrates candidates over
18 white candidates that were higher than they on
19 the employment roster."

20 Is that your allegation?

21 A. Yes.

22 Q. Is it your contention that you were bumped off
23 the roster in any way?

0231

1 A. No.

2 Q. In fact, Judge Gordon was the person that
3 hired you; is that correct?

4 A. That's correct.

5 Q. Who are you referring to that you contend that
6 she bumped?

7 A. Well, I know that Wendy Jones was one. She
8 had actually work in that office since she had
9 applied for the job. I think -- I think that
10 was Wendy's last name. I'm not sure, but I
11 know -- I think she got married, though, since
12 then. So I'm not sure what her married name
13 is.

14 Q. Wendy Jones and who?

15 A. I'm not sure. I don't recall --

16 Q. And how --

17 A. -- who the other one was. I know that there
18 were some dispatchers that applied, but I'm
19 not sure what their names were.

20 Q. And how is it -- what facts do you have to
21 support that they were bumped?

22 A. Just by what I was told as who made the
23 positions, that whenever I found out about the

0232

1 position rankings, they -- I know that Wendy
2 wasn't hired or the dispatchers weren't
3 hired. So --

4 Q. Who told you this?

5 A. I don't -- I don't know if they -- they that
6 told me or if it was just talk amongst who all

7 made what on the score to the list and who was
8 where because I do know there was some city
9 employees that were already working with the
10 city that applied. I think there was an
11 in-house register and an outside register.

12 Q. And who do you contend are the two magistrates
13 that were bumped over the white candidates?

14 A. Lavera McClain and Eunice Knight.

15 Q. And your only knowledge of this is just people
16 talking?

17 A. I did not see anything from Personnel.

18 Q. You don't have any really hard facts to
19 support this?

20 A. I don't have anything from Personnel to show
21 you.

22 Q. You just have what Wendy told you, and you
23 don't even know the other people's names?

0233

1 A. Well, I don't know -- I know that a couple of
2 them were dispatchers, but I don't remember
3 exactly who they were. But I'm sure that
4 Personnel would have that roster.

5 Q. You go on to say, "Regardless of their
6 shortcomings, Respondent Gordon refuses to
7 discipline or supervise or allow others to
8 supervise these black magistrates; is that
9 your contention?"

10 A. Yes, it is.

11 Q. Now, how do you contend that she refused to
12 discipline them?

13 A. Well, I know that I've made her known of some
14 of the mistakes, criticals errors that they
15 had made, and she didn't do anything about
16 them.

17 Q. Is that what you've testified to earlier?

18 MR. JAFFREE: Well, I'm not sure.
19 Your question was limited
20 earlier.

21 A. I don't think you've asked me.

22 Q. Well, I asked you about --

23 A. You asked me during a specific time.

0234

1 MR. JAFFREE: That's right. You
2 limited to the time, but you
3 never went back to the question.

4 Q. Well, tell me what the critical errors that

5 you contend they made.

6 A. Well, I'll refer to my notes, which you have.

7 On March the 17th, 2004, I received a
8 phone call from Rickey Stokes, who is the
9 bondsman, and advised me of a defendant who we
10 had entered under the wrong information.

11 Q. Let me stop you and try to see what you're
12 looking at here.

13 A. That may be it right there (indicating).

14 Q. Do you remember any of this short of reading
15 what you've written down?

16 A. This is it right here (indicating).

17 Yeah, I can tell you without looking at
18 it.

19 MR. JAFFREE: Are you insisting that
20 she --

21 MS. NELSON: I'm just wondering if
22 she can remember without --

23 THE WITNESS: Oh, yes.

0235

1 MS. NELSON: -- reading it.

2 MR. JAFFREE: Tell her as much as
3 you can without reading it, and
4 then if you need to refer to
5 your notes, go ahead.

6 A. Rickey called me and said that he had a
7 process showing where a Michael D. McCord was
8 needed to for a warrant or that there was a
9 warrant issued, and that they were fixing to
10 go get him. And they noticed that he was
11 employed with the nuclear plant, and they
12 started looking at the date of birth. And he
13 said, this is the not the right Michael
14 McCord.

15 So he came to the office and tried to talk
16 to Lavera about it. And my office is not that
17 far from the front that you can't hear if
18 people raise their voice. And Rickey was
19 trying to talk to Lavera about the situation,
20 and she told him that she did not have time,
21 that she had other things to do and didn't
22 have time to deal with him.

23 So when he went back to his office, he

0236

1 called me and said he needed some help. So I
2 looked in the computer, and I saw that,

3 clearly, she had the warrant issued up under
4 the wrong Michael McCord. So the judge knew
5 about it. I don't know if Rickey went over
6 there and told her. I -- to my understanding,
7 he filed a complaint in writing. I have not
8 seen that. That's just based on after the
9 fact that -- of what he told me.

10 And the judge called me from the courtroom
11 and said that clerical errors will happen and
12 not to make a big deal out of it, and that I
13 needed to delete it before I left work that
14 day and to fix it.

15 Q. Delete what?

16 A. To delete the information that was issued up
17 under the wrong Michael -- under the wrong
18 person and to fix it.

19 Q. I mean, was there more than one Michael Moore?

20 A. Michael McCord.

21 Q. Michael McCord?

22 A. Yes, there was.

23 Q. Had both been a defendant in the system?

0237

1 A. I assume if they were in there. I don't
2 know. One of them could've been a victim. I
3 don't know.

4 Q. Same spelling and everything as far as you
5 know?

6 A. They had a different middle name, different
7 date of birth. The age difference was quite
8 different.

9 Q. And, again, Rickey Stokes, his involvement
10 with this was because he --

11 A. The posted bond.

12 Q. -- had the bond on one of these Michael
13 McCords?

14 A. Yes.

15 Q. And you wrote something down that you were
16 reading from that you produced to me. When
17 did you write this down?

18 A. I'm sure it was not long after it happened.

19 Q. Where did you keep this kind of stuff; did you
20 just --

21 A. I had it at home. I wrote it at home.

22 Q. I know. But did you keep the -- where, in a
23 book or a drawer or folder or file?

0238

1 A. I had a folder that I kept some stuff in along
2 with my notices from my termination and that
3 sort of thing.

4 Q. And just for the Record, you're referring to
5 your notes and I'm going to mark the Michael
6 McCord notes as Defendants' Exhibit 42. Okay?

7 A. Okay.
8 (Defendants' Exhibit 42 was marked
9 for identification.)

10 Q. So did you delete it from the system?

11 A. Yes, I did.

12 And then there was printout on the HT
13 system that prints out of deleted files, so it
14 should be on there, if they kept it.

15 Q. And you contend some action should have been
16 taken against -- is this Lavera?

17 A. Yes.

18 Q. You contend some action should have been
19 taken?

20 A. Yes.

21 Q. And what action do you contend should have
22 been taken?

23 A. I don't know. I mean, that's not for me to

0239

1 decide, but I know she -- there should've been
2 some form of action taken.

3 Q. Was Nancy Martin involved in this in any way?

4 A. I paged her -- she was not there -- before I
5 did that to let her know since she was my
6 immediate supervisor. And I believe she was
7 in Kai Davis's office at the time. I'm not
8 sure. And she told me that since the judge
9 advised me to do that, that I needed to do it.

10 Q. And you say if -- do you know why Rickey
11 Stokes called you?

12 A. Because he knew that I was very efficient and
13 I would handle it, because Lavera would not
14 help him. And it needed to be done because if
15 the man arrested, he would've lost his job.

16 Q. Did you see him interact with Lavera?

17 A. No. I heard them.

18 Q. And what did you hear?

19 A. I just heard that -- I could tell that they
20 were talking loud enough to where I could hear
21 that they were conversing. And she just -- I
22 know I heard her say, I don't have time for

23 you; I've got other things to do Rickey. And

0240

1 she just walked away.

2 Q. Is Rickey in the office a lot --

3 A. I don't know.

4 Q. -- in the magistrate's office a lot?

5 A. He comes in there some.

6 Q. Does he --

7 A. I mean, I don't know how many times he does

8 with -- I mean, we have bondsmen that come in

9 there a lot, or we did. They would check on

10 cases.

11 Q. Did you ever ask --

12 MR. JAFFREE: Let me object to the

13 relevance of this line of

14 questions. These designed to

15 explain away the facts that she

16 said.

17 MS. NELSON: Just make your

18 objection. I can ask my

19 question.

20 MR. JAFFREE: All right.

21 Q. Had you ever had a bondsman come to you where

22 you were busy in the middle of something else

23 and you couldn't help them?

0241

1 A. Not to my knowledge.

2 Q. How often would you say Rickey Stokes was in

3 the office -- the magistrate's office?

4 A. I don't know, because I don't -- I didn't work

5 the front office every day, so I couldn't tell

6 you.

7 Q. Any other errors that you contend that Lavera

8 committed that the judge refused to discipline

9 her on?

10 A. There was an incident in January of '05.

11 Well, we got also -- I'll go in order. There

12 was the December of '04 where Lieutenant Cliff

13 Garrett, who was over the jail at the time,

14 issued memo a memo to Captain Givens regarding

15 a juvenile that had been arrested on a alias

16 warrant that the municipal court had issued.

17 Q. I'm going to stop you one more and ask, are

18 you looking at some notes you've made?

19 A. I'm -- I'm giving the dates, and then I'm -- I

20 haven't looked at it since I got the date and

21 what it was about.

22 Q. Okay. Go ahead.

23 A. And the judge had -- the memo sent evidently

0242

1 to the judge because she wrote on there for me

2 to look into it.

3 So I looked into it, and I found where

4 Lavera had issued a warrant on a 17-year-old

5 person for failure to appear. And I then told

6 the judge of what happened.

7 Q. And what happened?

8 A. That she issued the warrant on the juvenile

9 and he was arrested.

10 Q. You're not supposed to issue a warrant on a

11 juvenile?

12 A. Not for a misdemeanor, not for a Title 13.

13 Now, we do issue for the traffic violations

14 for Title 32, 16 and 17 year olds. But,

15 normally, we do a show-cause hearing before

16 they issue warrants.

17 Q. Okay.

18 A. But this was an actual -- it was an actual

19 city ordinance violation I believe it was.

20 But that was still a misdemeanor charge.

21 Q. Judge asked you to look into it and you did?

22 A. Yes. And then I reported back to her.

23 Q. What did you report?

0243

1 A. What I just stated, that Lavera had issued the

2 warrant, and he was arrested.

3 Q. Okay. What was he arrested for?

4 A. I guess failure to appear. It was an alias

5 warrant. I'm not sure if it was for -- I

6 think it was for failure to appear. I'm not

7 sure exactly.

8 Q. Is your testimony that you felt that action

9 should have been taken against Lavera?

10 A. Yes.

11 Q. And why is that?

12 A. Because she issued a warrant on a juvenile,

13 and it shouldn't have been.

14 Q. Anything else?

15 A. In January of '05, she issued -- on Emmanuel

16 Hooks. She issued two alias warrants for the

17 same case, and he was arrested on both of

18 them.

19 MR. JAFFREE: When you say "she,"
20 referring to who.

21 THE WITNESS: Emmanuel was arrested
22 on both charges.

23 MR. JAFFREE: No. What she are you

0244

1 referring to?

2 A. Lavera issues alias warrants -- two alias
3 warrants for the same case at the same time.
4 And, therefore, he was arrested for both
5 charges. And I did a release order for one to
6 release him on one charge, and he posted a
7 bond -- I don't know if he posted the bond or
8 if he was a prisoner -- on the other. But I
9 wrote a note to the judge, advising her of
10 what happened. He could have been a prisoner
11 and -- I'm just not sure. I don't remember.

12 Q. There were two charges?

13 A. No. There was one -- she issued two alias
14 warrants for the same thing for the same case
15 at the same day, same time, everything. She
16 duplicated the warrant, and he was arrested on
17 both.

18 Q. Could the system somehow have duplicated it,
19 duplicated the warrant?

20 A. Not without you telling it to.

21 Q. And where do you have to -- is this a --

22 A. You have to tell it to print.

23 Q. Print?

0245

1 A. Yes.

2 Q. She could've hit print twice?

3 A. She could have. But you sit there, and when
4 you issue your alias warrants, you've got your
5 warrants in one stack and you've got your
6 paperwork that you just issued them from. And
7 you have to write the alias warrant number and
8 the date on the paperwork. So if you've got
9 one case, you should have one warrant if it's
10 done properly.

11 Q. And he proceeded to be arrested --

12 A. For one charge.

13 Q. -- at least under one of them.

14 And you've made some notes on this; is
15 that correct?

16 A. Yes.

17 Q. Both on the December 1st, '04 and Emmanuel
18 Hooks you just told me about.

19 (Defendants' Exhibit 43 was marked
20 for identification.)

21 Q. I've marked that as Defendants' 43 --

22 A. Yes.

23 Q. -- that you gave me.

0246

1 Anything else?

2 A. I know that I was in Nancy's office. I'm not
3 sure when it was. I know that Valarie Savage
4 and Michelle Bryan has been complaining about
5 some clerical errors in the computer that they
6 had made, she and Eunice both.

7 Q. Wait. Let me make -- Valarie Savage and --

8 A. And Michelle Bryan.

9 Q. -- were complaining?

10 A. Had complained -- made complaints about Lavera
11 and Eunice's clerical errors in the computer.
12 And at first, they were fixing them, but they
13 said, it was just getting to be too many and
14 they should fix them themselves so they
15 can -- they'll know what they're doing, that
16 hopefully they won't repeat themselves.

17 Q. Now --

18 A. And I was in Nancy's office when they did
19 that.

20 Q. You just heard them complaining?

21 A. They had cases in their hand that they were
22 giving to Nancy at the time.

23 Q. And what kind of clerical errors are you

0247

1 talking about?

2 A. They had wrong codes key in the computer for
3 the trial type, wrong dates, that sort of
4 thing.

5 Q. And these are like keying errors?

6 A. Yes.

7 Q. Are you aware of others having some keying
8 errors?

9 A. I'm sure, but I was just present --

10 Q. You were just present at the time?

11 A. -- at that time.

12 Q. Are you aware of any other magistrates that
13 may have issued two alias warrants for the
14 same case?

15 A. I don't know. I just happened to come across
16 that. I don't -- I don't deal -- I don't go
17 around looking to see. I'm not aware of any.
18 There may have been, but I did not aware -- I
19 was not aware.

20 Q. Are you aware of any other warrants being
21 issued on a juvenile?

22 A. We do have the ones that we issue for issue
23 citations on 16 and 17 year olds, but that's

0248

1 rare. Like I said, we normally have a
2 show-cause hearing first.

3 Q. Are you aware of any warrants being issued for
4 something that's not a traffic citation?

5 A. Not to my knowledge, not that I've come across
6 or was asked to check into.

7 Q. This was just one became aware of?

8 A. Through the judge.

9 Q. How many cases go through that office in a
10 given year?

11 A. Oh, thousands.

12 Q. Maybe like 20, over 20,000?

13 A. Possible?

14 Q. Thirty?

15 A. I don't know. I'm not sure of the
16 figures -- any of the figures.

17 Now, I was working in the courtroom at one
18 particular time, and there was a mistake on
19 the case that the judge had in front of her.
20 And she asked me, what was wrong with it and
21 who did it.

22 And I told her, it was Eunice.

23 And she said, well, just fix it for me.

0249

1 So she was aware of -- I don't -- I don't
2 know what that was, but I -- I do remember
3 that.

4 Q. Was it a clerical-type mistake?

5 A. Yes.

6 Q. Any other situations you can think of?

7 A. Not right now.

8 Q. Any of these other things you've written down
9 didn't have anything to do with mistakes?

10 A. No. Oh, wait a minute. Yes, I do. I'm
11 sorry.

12 In March of '05, there was a defendant by

13 the name of Crystal Gray.

14 MR. JAFFREE: Pause for a second.

15 She's looking for a document.

16 THE WITNESS: Oh, I'm sorry.

17 MS. NELSON: I'm trying to listen.

18 Q. Go ahead and tell me about it.

19 A. On -- Eunice recalled an alias warrant on
20 March the 5th that she did not insure that the
21 original came back from the jail. And that's
22 one of the things that when you recall a
23 warrant, you make sure that you get that

0250

1 original warrant back from the jail.

2 And there have been times when we were
3 told, you go over there and you get the
4 original warrant, if you don't get it back.

5 She did not insure that, and that
6 defendant was arrested approximately a month
7 and a month and a half later on that AW.

8 Q. Give me that persons' name.

9 A. Excuse me?

10 Q. Do you remember that person's name?

11 A. Crystal Gray.

12 So I allowed her to sign her own bond.

13 Q. Crystal Gray?

14 A. Uh-huh (positive response)

15 So I let her sign her own bond, and the
16 judge was noticed.

17 Q. That was on Defendants' Exhibit Number 20.
18 (Brief recess)

19 Q. You were talking about Crystal Gray, and it
20 was contained on Defendants' Exhibit 20.

21 And when did you make that note? You have
22 it on a sticky note.

23 A. Yeah. I don't know. I can't tell you exactly

0251

1 when I wrote it, but it was after the fact.

2 Q. You mean, after the lawsuit?

3 A. No, not after the lawsuit.

4 Q. After your termination?

5 A. No. I made notes pretty often whenever
6 something that, you know, that happened like
7 that. And some of them, you know, we remember
8 just by the name. If it's somebody that was
9 arrested wrongly, that's just something that
10 should not happen.

11 Q. Anything else? What's on this little sticky
12 note you gave me?

13 A. That's just where I cited during my personnel
14 ruling -- my Personnel Hearing with the
15 Personnel Board, I had cited Section 3-10 in
16 the City of Dothan Personnel Rules that
17 disciplinary actions were not consistent in
18 our department, based on that being a
19 personnel rule.

20 Q. What being a personnel rule?

21 A. That discipline should be consistent within a
22 department for everybody. And I was just
23 citing that that did not -- that was not.

0252

1 Q. Are you aware of any other employee that had
2 committed insubordination?

3 A. Insubordination? Not to my -- I mean, you're
4 going to have to give me an example, because
5 insubordination is kind of broad, I think, as
6 far as what that means.

7 Q. Are you aware of anyone else who had told an
8 individual that he had been falsely arrested
9 and to sue the City?

10 A. Are you talking about the incident with me?
11 Is that what you're talking about?

12 Q. Besides you?

13 A. Oh, I don't know.

14 MR. JAFFREE: Excuse my.

15 A. I don't know how I would know that.

16 MR. JAFFREE: You're asking her a
17 fact -- her testimony was that
18 she didn't tell him he was
19 falsely arrested and to sue the
20 City. And you asked her, do you
21 know of a situation where
22 somebody else said they were
23 falsely arrested and sue the

0253

1 City. That was not her
2 testimony.

3 Q. Do you know of anyone who --

4 A. Not to my knowledge.

5 MR. JAFFREE: Wait a minute. She
6 didn't ask the question.

7 THE WITNESS: Well, I know what
8 she's talking about. I mean,

9 she's going to ask it again.

10 MR. JAFFREE: Well, hopefully,

11 she'll ask it the right way.

12 Q. Do you know of anyone who told the defendant

13 they had been falsely arrest and then told

14 theme to file a claim or a suit against the

15 City?

16 A. Not to my knowledge.

17 Q. Do you know of anyone who has signed a uniform

18 ticket transmittal form swearing that they

19 received all the tickets and then struck a

20 line through and written "void" on a ticket?

21 A. I haven't seen that personally, no.

22 (Defendants' Exhibit 44 was marked

23 for identification.)

0254

1 Q. Just for the Record, I've marked that other

2 sticky note as Defendants' Exhibit 44 --

3 A. Okay.

4 Q. -- where you cited that --

5 A. Yes.

6 Q. -- rule to the Personnel Board.

7 A. Yes.

8 Q. And just following on these notes, I think

9 I've asked you about those.

10 I'm back to the EEOC charge. You're

11 talking about the move to the new facilities.

12 I assume you're talking about the new

13 magistrate's office.

14 You alleged that "Judge Gordon permitted

15 black magistrates to assign themselves premium

16 offices, notwithstanding that other white

17 magistrates had more seniority."

18 Is that your contention?

19 A. Yes.

20 Q. And who do you contend was allowed to assign

21 themselves the premium offices?

22 A. I believe Lavera McClain was the one that was

23 going around and assigning offices and telling

0255

1 us where our offices were.

2 Q. And you say you believe that?

3 A. That's what was -- that's how it was put to

4 me. She said --

5 Q. By whom?

6 A. Lavera.

7 Q. Do you know who actually made the decision to
8 assign offices?

9 A. No, I do not.

10 Q. That's just your perception or your --

11 A. Well, if she said, this is where our offices
12 are, then I assume that's where she put it.

13 Q. To your knowledge, was Lavera involved with
14 the actual physical move of the offices?

15 A. Yes, she was.

16 Q. Were you involved in the physical move of the
17 offices in any way?

18 A. We all moved. We all helped in moving, but
19 she was the one that was in charge of making
20 sure things were packed up and telling us
21 where our offices were and that sort of thing
22 and making sure that we had people to move us
23 and all that.

0256

1 Q. Do you feel like this was an inappropriate
2 assignment to give that assignment to Lavera?

3 A. I feel like that the offices should have been
4 assigned maybe in a seniority basis instead of
5 what she wanted people to have.

6 Q. "She" being who?

7 A. Lavera.

8 Q. But you don't know for sure -- you don't know
9 that Lavera made the decision as to whose
10 office would be where, do you?

11 A. Shy didn't say that somebody else did.

12 Q. You just testified, you don't know who made
13 the decision.

14 A. No. She -- I said that based on what she told
15 and showed us, it was coming from her.

16 Q. She was the messenger?

17 A. She -- well, that's not -- that's not what she
18 said she was. She did not say, I'm coming to
19 you as a messenger and somebody said this is
20 your office. She was stating to us that this
21 is where your office is. She didn't say she
22 was the messenger.

23 Q. I'm just saying, you're just assuming that she

0257

1 made the decision; you don't have any facts --

2 A. My testimony.

3 Q. -- to support that, other than your perception
4 because she told you where the offices were

5 going to be?

6 A. Well, it didn't come from Judge Gordon, and it
7 didn't come from our court administrator.

8 Q. And how do you know that? Did it come from
9 their mouths?

10 A. That's right.

11 Q. Okay. Thank you.

12 And, again, you said, "This not-too-subtle
13 preference toward black magistrates would be
14 tolerable but for the rigid discipline imposed
15 by Judge Gordon against the white
16 magistrates."

17 What rigid discipline are you talking
18 about?

19 A. Well, I think over the time that I was there,
20 that her discipline that she -- the things
21 that have happened to me and some mistakes
22 were made by other blacks. And they did not
23 get -- they did not get disciplined at all.

0258

1 Q. And you equate their mistakes to the mistakes
2 that you have made?

3 MR. JAFFREE: Define "equate,"
4 because if you're saying, the
5 mistakes were more serious, then
6 I think she can acknowledge
7 that.

8 MS. NELSON: No. She understands my
9 question. You can object to my
10 form.

11 A. Reask the question.

12 Q. I said, do you equate the conduct that you
13 claim the blacks were engaged in, do you
14 equate that to the offenses that you were
15 charged with and disciplined for?

16 A. That I was allegedly charged with, that I was
17 charged with. Yes. Having somebody falsely
18 arrested, making the errors that were made, I
19 sure do. That was negligence.

20 Q. And you said white employees made errors and
21 mistakes?

22 A. Yes.

23 Q. Do you contend they should have been likewise

0259

1 disciplined?

2 A. Sure.

3 Q. Now, you mentioned Lavera and Eunice. Were
4 there any other black magistrates at the time?

5 A. Tonya Minifield had been hired.

6 Q. Do you content that Tonya --

7 A. I do not --

8 Q. -- should have been disciplined?

9 A. I did not come across anything that she had --

10 that she had made mistakes on. I did not have

11 any incidents where she had had any mistakes.

12 I'm not saying she didn't, but I did not come

13 in contact with them.

14 Q. You go on to say that "Judge Gordon terminated
15 or caused the resignation of no less of eight
16 white magistrates since her term of
17 employment."

18 What eight people are you talking about?

19 A. I know that Donna Nicholson was fired. Debbie

20 Irby quit because she was fixing to be fired.

21 Cheryl Maray quit. Kim Phillips quit. Kevin

22 Sorrells was fired. Mary Turner and myself

23 and Nancy. I don't know how many that is.

0260

1 Fran Bailey quit.

2 Q. Do you know why each of the individuals -- I
3 mean, I know you know your own situation. Do
4 you know why -- I've asked you this before --
5 why Donna Nicholson was terminated?

6 I've asked you that, haven't I?

7 A. Yes. And Donna told me --

8 Q. Only what Donna told you?

9 A. Right.

10 Q. You don't really know the circumstances of
11 all --

12 A. I did not see her paperwork. No. But based
13 on what she told me.

14 Q. Or why Kevin Sorrells was terminated?

15 A. No.

16 Q. Do you know why Nancy Martin was terminated?

17 A. I believe for not having proper supervision.

18 I'm not sure.

19 Q. You don't really know, do you?

20 A. I have seen it, but I don't recall what it
21 said.

22 Q. Seen what?

23 A. Her termination paperwork.

0261

1 Q. Besides the paperwork, I'm talking about all
2 the facts and circumstances for which she was
3 terminated?

4 A. No.

5 Q. Debbie Irby, you know said, she was about to
6 be terminated. Do you know why she was
7 terminated?

8 A. It was involving the incident with Donna
9 Nicholson.

10 Q. But you don't really know the facts and
11 circumstances regarding all that, do you?

12 A. Well, she told me that she was going to quit
13 because she knew she was going to be fired
14 anyway. I mean, I --

15 Q. Other than what she told you.

16 A. I'm trying to answering what you're asking me,
17 so I don't -- seeing any paperwork, no. Just
18 based on her telling me what happened.

19 Q. Well, I'm talking about your own personal
20 knowledge of the facts and the circumstances,
21 not what -- not hearsay, not what she told
22 you.

23 A. Well, if she told me, that's -- I mean, that

0262

1 was --

2 Q. That's the gospel, isn't it?

3 A. No. I'm just saying --

4 MR. JAFFREE: I'm going to object.

5 Argumentative. And a charge of
6 discrimination with the EEOC, it
7 put down, prior to discovery,
8 what they believe to be the
9 facts. And as soon as they can
10 rely on a principal to tell
11 those facts and state those
12 facts. They're not the
13 employer. They don't have
14 access to all the information
15 prior to discovery and even
16 after discovery. Well, you're
17 asking her --

18 MS. NELSON:

19 Q. You're just going by what Debbie Irby told
20 you?

21 MR. JAFFREE: You're arguing with
22 this witness about what she

23 knows.

0263

1 MS. NELSON: I do not mean to be
2 arguing with the witness. I'm
3 trying to just understand what
4 factual basis she has, aside
5 from what a person told her
6 happened.

7 Q. Fran Bailey, do you know the circumstances of
8 her leaving?

9 A. I know that she was going to school, but I
10 knew -- do know that she filed a memo with the
11 judge and with the personnel department before
12 she left about things that she observed and
13 how she felt things were in that office. And
14 I do know that she was summoned over to the
15 judge's office as a result of that memo
16 because she told me.

17 Q. But other than what she told you, you don't
18 have any independent knowledge of such memo
19 or --

20 A. I did not see the memo, but I do know that
21 it's in her file. It should be. And she also
22 has a copy.

23 Q. Have you seen that memo?

0264

1 A. I probably did, but I don't recall. I
2 don't -- I don't remember if she ever showed
3 it to me or not. She just was telling me.

4 Q. And what did it allegedly say?

5 A. Just about how she could tell people were
6 getting treated differently in the office and
7 that mistakes that were being made, and that
8 sort of thing, from being a clerk.

9 Q. I wrote Donna, Kevin, Debbie. Mary Turn,
10 we've talked about. Nancy, Fran. Anybody
11 else? Yourself.

12 A. Kim Phillips and Cheryl Maray.

13 Q. Do you know the circumstances of Kim Phillips
14 leaving?

15 A. Just tired of the mess going on, just certain
16 people not being accountable for their
17 mistakes.

18 Q. Certain people, would that include Ann Baxter
19 or --

20 A. I don't know.

21 Q. -- white individuals?

22 A. I don't know.

23 Q. Could?

0265

1 A. It could be. Yes. I don't know.

2 Q. And Cheryl Maray, do you know the
3 circumstances of her leaving?

4 A. The same. Well, I know that -- I think that
5 she went to another job, but it was -- she
6 just couldn't do it anymore. She said she
7 couldn't --

8 Q. And it's based on what she told you?

9 A. Yes.

10 Q. Besides yourself, do you know any other whites
11 who have been disciplined?

12 A. After -- since this has happened, I do believe
13 I've come to hear that Ann Baxter was
14 disciplined, I believe, for some money
15 situation with her moneys.

16 Q. And how did you learn that?

17 A. I think Nancy and I had talked about that
18 after the fact. I'm not sure if she was or
19 not.

20 Q. Anyone else?

21 A. Well, other than Mary?

22 Q. Well, Mary --

23 A. Yeah. Well, you're asking any other white.

0266

1 That's what I'm saying. I don't know. Not to
2 my knowledge, I don't know. And myself.

3 Q. You also contend that Judge Gordon
4 "manufactured reasons to terminate" you. Is
5 that your contention?

6 A. I believe that, like I testified earlier,
7 there were some things that she could have
8 handled internally instead of having the
9 internal investigations. And, you know, I --

10 Q. Like what?

11 A. I think so.

12 Well, the first internal investigation. I
13 testified earlier, she should have handled
14 that internally.

15 Q. With Ralpeje?

16 A. Yes.

17 Q. Now, Judge Gordon is on the bench a good bit
18 of the time, isn't she?

19 A. I assume. I know that they have court certain
20 times of the day.

21 Q. So your contention that Judge Gordon would
22 have the time to go out and conduct
23 investigations with bondsmen and defendants

0267

1 and individuals in the community and all the
2 people in the department?

3 A. She didn't have court on Fridays, and she
4 didn't have court the last week of every
5 month. So I would think that she would have
6 time. Yes. She had an assistant.

7 Q. What about the -- other than that first
8 incident, you think she should have
9 investigated all that?

10 A. I think that she should have let me know what
11 was going on prior to it just being thrown at
12 me. I think that I would've at least -- I
13 deserved that much, that she should've let me
14 know what was going on.

15 And I think by her telling me when I made
16 her aware of mistakes that were happening with
17 Lavera and Eunice, just brushing it off like
18 they were -- everybody makes mistakes, and to
19 just fix it, and not make a big deal out of
20 it.

21 Q. You said she "instructed Nancy Martin to keep
22 a close eye on" you?

23 A. Yes.

0268

1 Q. "And two other white magistrate."

2 A. Yes.

3 Q. Is that your testimony?

4 A. Yes.

5 Q. And what do you base that on?

6 A. Nancy.

7 Q. Nancy told you that?

8 A. Yes.

9 Q. "And at the same time, implying that she
10 should take a blind eye on what black
11 magistrates were doing."

12 What do you have to base that on?

13 A. Nancy.

14 Q. Nancy. That was Nancy's comment?

15 A. Yes.

16 Q. Okay. And then you state, "The black

17 magistrates have not been subject to
18 discipline, yet at least two have committed
19 offenses which would warrant discipline."

20 Is that the same thing that you were
21 talking about?

22 A. Yes. Yes.

23 Q. Then you went on to say, despite "the
0269

1 directive from Judge Gordon not to speak to a
2 white employee," which is Mary Turner?

3 A. Yes.

4 Q. That you said, "Judge Gordon was unpersuaded
5 that there was an employment imperative that
6 required contact with this person."

7 But you never really talked to Judge
8 Gordon about your alleged need to talk to Mary
9 Turner, did you?

10 A. No. But I felt like, you know, why -- why did
11 she give me Mary Turner's job duties? Why
12 would she even do that? Why wouldn't she give
13 them to somebody else?

14 Q. And because she gave you the job duties and
15 had specifically told you not to contact her,
16 you felt like it was okay to contact her?

17 A. I assumed she meant about the investigation
18 because if I go to church with somebody or I'm
19 walking down the street and see her, I have
20 First Amendment rights to speak to someone and
21 not have to be told, no, you can't speak to
22 that person.

23 Q. Even when that person has been charged with a
0270

1 criminal offense, is under criminal
2 investigation?

3 A. Yes.

4 Q. But you didn't contact her just to speak to
5 her or going to church or down the street; you
6 picked up the phone and called her --

7 A. I did because I did not get any cooperation
8 out of Michelle Sellers.

9 Q. Now, to your knowledge, did the submit any
10 information to the EEOC to support your
11 claims?

12 A. I'm not sure.

13 Q. Your lawyer -- I'm not going to ask you what
14 you and your lawyer talked about or did.

15 You don't know that you did anything?

16 A. Not to my knowledge.

17 Q. To your knowledge, did the EEOC ever rule one
18 way or the other against you or you or --

19 A. I'm not sure if they sent -- they could have.

20 I don't remember if I -- I haven't looked at
21 that.

22 (Defendants' Exhibit 41 was marked
23 for identification.)

0271

1 Q. I'm showing you Defendants' Exhibit 41. It's
2 a letter to your lawyer. I was just going to
3 ask if you ever saw that?

4 A. He probably sent me a copy of that.

5 MR. JAFFREE: And I may not have. I
6 don't know.

7 A. Yeah. I'm not sure.

8 Q. Are you aware that your lawyer requested
9 what's called a Right to Sue move forward
10 without a decision being reached at the EEOC
11 level?

12 A. I'm --

13 Q. You don't know?

14 A. I'm not sure. He could have.

15 Q. Now, you and Ms. Martin have filed this
16 lawsuit together; is that correct?

17 A. That's correct.

18 Q. Was she terminated before you were?

19 A. Yes.

20 Q. So she was not involved in your termination in
21 any way?

22 A. She -- she was told to -- on my evaluation
23 that she did, she had to discipline me, but

0272

1 she wasn't here when the incident happened.
2 She didn't want to, but she was directed to do
3 that.

4 Q. And she's told you this?

5 A. Yes. She didn't feel like that she since she
6 was not here for the incident, that it -- she
7 shouldn't handle it.

8 Q. And we're talking now about the --

9 A. The 2004.

10 Q. The Fondren --

11 A. Yes.

12 Q. -- issue?

13 A. Yes.

14 Q. And you're saying she had to fill out your
15 evaluation alluding to that?

16 A. She did my -- yes. She showed me that
17 earlier.

18 Q. And she just felt like she wasn't here --

19 A. I think she notated on the evaluation that she
20 put she was not here during the incident.

21 So --

22 Q. You're saying it probably took her -- she
23 probably did get here until, I think you said,

0273

1 the first quarter of 2004?

2 A. I'm not sure when she started. I believe
3 that -- I know that she was there whenever I
4 came back from my suspension because she and I
5 both were summoned to the judge's office.

6 Q. And you're referring to another note --

7 A. Yes.

8 Q. -- you have here?

9 A. Yes.

10 Q. And I'm going mark this as Defendants' Exhibit
11 45.

12 (Defendants' Exhibit 45 was marked
13 for identification.)

14 Q. And, so, your notes -- you were pointing to
15 your notes, and y'all were summoned to the
16 judge's office for what?

17 A. The judge just -- the judge needed to speak to
18 me and was pretty much asking me if -- if I
19 wanted my job, if I wanted to work there, and
20 that, you know, if I didn't want to be there,
21 to let her know, and that I needed to take
22 responsibility for that incident. And I was
23 very uneasy about that situation. I almost

0274

1 felt like she wanted me to quit.

2 Q. When you came back from your suspension, were
3 you threatening or uneasy to other people
4 there?

5 A. No. It was the day I came back.

6 Q. Were you resentful toward the judge for
7 suspending you?

8 A. No. I didn't have any contact with the judge
9 when I got back until we had this meeting.

10 Q. What about with Michelle Sellers; were you

11 resentful to her in any way?

12 A. I don't know. I don't recall if I was.

13 Q. Could have been?

14 A. I could have been.

15 Q. And Michelle Sellers is sitting in here.

16 A. Uh-huh (positive response).

17 Q. She's the court administrator now. She's

18 white; is that correct?

19 A. Yes.

20 Q. And why were you resentful to Ms. Sellers?

21 A. I didn't say I was.

22 MR. JAFFREE: She didn't say she

23 was. She said she could've

0275

1 been.

2 Q. You said you could've been?

3 A. I could've been, but I don't recall.

4 Q. Well, why do you think you could have been?

5 A. I don't -- I don't know. I could've been

6 short with her, but I don't know if I was or

7 not. I mean, I don't -- I can't answer that

8 if I don't recall if I did.

9 Q. If you don't remember but said, you could

10 have, you yourself could've been displaying

11 some uneasiness or ill-will toward others in

12 the office, resentment, so to speak, about

13 your suspension?

14 A. I was probably silent. I probably was not

15 real sociable.

16 Q. And maybe not helpful to others in the office?

17 A. I don't know about that.

18 Q. Could that have been the reason perhaps Judge

19 wanted to talk to you?

20 A. That was not -- that was not talked about in

21 this meeting. That's not what she stressed to

22 me.

23 Q. But you told her you wanted your job?

0276

1 A. Sure. I was very good at my job, very

2 efficient.

3 Q. Did you ever complain to anybody about -- did

4 you ever come -- you said you never talked to

5 Kai Davis?

6 A. I couldn't go to her. If I went to her, I

7 would be going over -- stepping over

8 supervisors, and you can't -- from what I

9 understand, you cant do that.

10 Q. It's your understanding, you can't go to
11 Personnel?

12 A. Without going through your proper channels
13 first. You have to advise your supervisors of
14 what you're doing.

15 Q. And where did you get that from?

16 A. I -- it's just what -- I don't know. I guess
17 that's just the way it was -- I've always
18 perceived it to be.

19 Q. So you've never reported to anyone that you
20 felt that the judge was treating your
21 differently because of your race?

22 A. Nancy knew about it. And she also can see by
23 the treatment that was being -- how it was

0277

1 treated in the office, and she said, she went
2 to Kai Davis. As a supervisor, she could see
3 what was going on, so she advised Kai Davis of
4 what was going on.

5 Q. But you weren't present?

6 A. No.

7 Q. And you don't know what conversation went on
8 between she and Kai Davis?

9 A. Not a -- not.

10 Q. And if Kai David said differently, would
11 you --

12 A. That would be her testimony.

13 Q. -- belive -- you just don't know what went on
14 with Kai Davis?

15 A. Well, she's representing the City. So I would
16 I think that, you know, she would -- she would
17 be on the City's side.

18 Q. Well, you're just assuming that?

19 A. Right. Right. Because you asked me.

20 Q. Did you ever go to the EEO officer?

21 A. No. I don't even know if we had one at the
22 time. I don't know if we did.

23 Q. Just sort of as a cleanup thing, on this same

0278

1 Defendants' Exhibit 45 that you had written
2 that note about --

3 A. Yes.

4 Q. -- seeing the judge?

5 A. Uh-huh (positive response.)

6 Q. You had copied --

7 A. Yeah. I was just saving paper.
8 Q. -- another note about January 2004. "A
9 gentleman came and asked to speak to Mary Beth
10 Brackin. Was this --
11 A. Yes. That was the --
12 Q. That's the Fondren matter?
13 A. Fondren, yes.
14 Q. I was just trying to clarify that was.
15 A. Yes.
16 Q. But I think I've asked you about that.
17 A. Yes, you did.
18 (Defendants' Exhibit 46 was marked
19 for identification.)
20 Q. And just for the Record, since I've introduced
21 everything else under the sun, to your
22 knowledge, is this Number 46 a copy of Judge
23 White's order on appeal where you appealed
0279
1 your board decision?
2 (Brief pause)
3 MR. JAFFREE: In the interest of
4 time, we'll stipulate that's
5 Judge White's decision.
6 Q. Okay. I'm not going to ask you about it.
7 Thank you.
8 Just on more question, and then we'll take
9 a break. And maybe I can -- I'm going to ask
10 her about the complaint which is probably most
11 of the stuff we've got --
12 MR. JAFFREE: That can take forever.
13 MS. NELSON: Well, you're the one
14 that drafted a 39-page
15 complaint.
16 MR. JAFFREE: I thought we were
17 going to go through the
18 complaint earlier.
19 MS. NELSON: I'm going to be done in
20 the time I told you. I told you
21 it would take about six hours.
22 (Off-the-Record discussion)
23 Q. Just one other quick question. You know,
0280
1 you've testified before the board hearing,
2 and, you know, you said you had to answer some
3 questions with the internal investigation.
4 Is it your testimony that you gave

5 truthful responses to the questions asked of
6 you in the Personnel Board Hearing and any
7 questions asked of you during the Internal
8 Affairs investigation?

9 A. Yes.

10 MS. NELSON: Why don't we take about
11 a 15-minute break?

12 (Brief recess)

13 Q. Ms. Brackin, your lawyer, on your behalf, I
14 assumed he prepared a complaint that was filed
15 in federal court. Have you seen that?

16 A. The second amended complaint.

17 Q. Seconded amended complaint?

18 A. Yes.

19 Q. I understand that's what's in effect at this
20 time.

21 I'm looking at Number 16 -- you may have
22 covered this -- on page five. You claim you
23 received exemplary -- excuse me --

0281

1 satisfactory to exemplary annual evaluations.
2 We reviewed most of those. There were, even
3 through Donna Nicholson's evaluations of you,
4 some issues regarding your attitude that we've
5 discussed; isn't that true?

6 A. This is -- I think 16 relates to my first
7 tenure with the magistrate's office.

8 Q. Your first tenure; is that right?

9 THE WITNESS: Is that right?

10 A. This is not --

11 Q. Excuse me. I'm sorry.

12 A. Yeah.

13 Q. Even your first tenure, Gayle Schwarz even
14 noted some issues of attitude and treatment
15 toward the public that we've covered?

16 A. Yes.

17 Q. And it's your testimony, you're not aware of
18 any discipline that you received in the police
19 department --

20 A. No.

21 Q. -- when you were there?

22 Again, we could be here all night.

23 A. Yes.

0282

1 Q. I think you've talked, Number 19, about the
2 issue with Shaun, the public defender; that's

3 Shaun McGhee --

4 A. Yes.

5 Q. -- we talked about.

6 What information do you have that -- do
7 you know for a fact that it was Judge Gordon
8 that instructed the police department to
9 conduct a closed-door, rigorous investigation?

10 A. Well, she was the one that drew up the letter
11 that I was to report to them.

12 Q. But all you know is what the letter stated --

13 A. Yes.

14 Q. -- asking you to --

15 A. Yes.

16 Q. -- cooperate with them?

17 Are you aware that Internal Affairs gives
18 something when they looked into something
19 called a Guaranty Instruction; does that mean
20 anything to you?

21 A. No.

22 Q. You never worked with Internal Affairs?

23 A. No.

0283

1 Q. You don't really know how they conduct
2 investigations?

3 A. No.

4 Q. And, again, by number 22, I think you
5 testified, you really don't know how Internal
6 Affairs operates or when they're used or for
7 all the things they're utilized for?

8 A. No, I do not.

9 Q. Number 24, 25 deals with the Fondren issue
10 which I think we've discussed in length.

11 A. Yes.

12 Q. So I don't need to revisit that.

13 You even cite the judge's memo that I
14 think I asked you about.

15 Paragraph 28, we're still talking about
16 the Fondren matter through here. That 28, 29,
17 30, that deals with the matter we've looked
18 into about the claim that you had told a
19 defendant that he was wrong to be arrested.

20 A. Yes.

21 Q. And that was investigated.

22 A. Yes.

23 Q. You're stating that Judge Gordon asked you to

0284

1 sign the form to consent to interrogation?

2 A. Yes.

3 Q. Or was that Internal Affairs?

4 A. Judge Gordon submitted the letter to me.

5 Q. Asking you to report?

6 A. Yes.

7 Q. To report to them?

8 A. Yes.

9 Q. Now, when you say, you reported to an
10 interrogation room, where did you actually
11 report?

12 A. Well, it was the chief's conference room, but
13 they used that for multiple --

14 MR. JAFFREE: What -- nothing.

15 Q. You said you got the results four and a half
16 months later; is that your testimony?

17 A. Yes.

18 Q. Do you know, during this time, was Internal
19 Affairs investigating this?

20 A. I don't know.

21 Q. Just know it took some time?

22 A. Yes.

23 Q. And you don't know the reason for the delay?

0285

1 A. No.

2 Q. And Number 32, that deals with the testimony
3 you've given, that, basically, Ms. Martin had
4 just come board, but she was still involved in
5 the administration of the discipline?

6 A. Yes.

7 Q. And I think I've talked to you about that.

8 I'm not trying -- I'm trying to move along and
9 not repeat everything we've gone over.

10 And it's your testimony under 35 that you
11 could not appeal that suspension or seek due
12 course of that suspension?

13 A. Yes.

14 Q. And Number 37, talking about Rickey Stokes --

15 A. Yes.

16 Q. -- lodging the complaint against Lavera.

17 A. Yes.

18 Q. Is this what you testified to earlier --

19 A. Yes.

20 Q. -- about Mr. McCord?

21 A. Yes.

22 (Brief pause)

23 Q. Now, in Number 43, you make allegations
0286

1 regarding a defendant appearing on a speeding
2 ticket, and that it was his opinion that it
3 was resolved by the intervention of Mary
4 Turner. And you went on to state certain
5 things, that the Ticket -- basically, that she
6 put the ticket back on the trial docket
7 because he had failed to complete the repair
8 work on her roof at home.

9 Do you have personal knowledge of that?

10 A. I don't recall.

11 Q. You go on to say in 44, you really weren't
12 involved in that but --

13 A. Right. I don't --

14 Q. You weren't accused of having involvement in
15 that.

16 A. Right. I don't -- I don't know.

17 Q. Do you have knowledge that because of the
18 seriousness of all of that allegation against
19 Ms. Turner by this Defendant Phelps, that the
20 matter was turned over to the police
21 department?

22 A. After the fact. Yes.

23 Q. And we've talked -- go on to Number 46,
0287

1 talking about the directive, the meeting with
2 Judge Gordon, not to have any contact with
3 Mary Turner.

4 A. Yes.

5 Q. And you testified about doing her job duties
6 and the Rickey Stokes store and the
7 investigation after that. You just told the
8 investigator that you had talked to her.

9 Talked about Eric -- 52, 53, Corporal
10 Duhaime's involvement as you stated. I think
11 we've talked about that.

12 Your appeal.

13 And then I wanted to ask you
14 about -- well, 65, you talk about testimony I
15 believe we've covered as far as Lavera McClain
16 and Eunice Knight being negligent, carrying
17 out their assignments but not disciplined.
18 You've given me those instances that you've
19 claimed.

20 A. That's just -- yes, that's -- that's the ones

21 that I have personnel knowledge of that I can
22 remember.

23 Q. Okay. And then the rest goes on to -- just

0288

1 claims by Ms. Martin.

2 Do you have any -- strike that.

3 One of Ms. Martin's claims is that she
4 claimed that Get Out Bonding got preferential
5 treatment by Judge Gordon. Do you have any --

6 A. What number are you on?

7 Q. I'm on number 92, something that's not
8 involved in yours?

9 A. Oh.

10 Q. But do you have any facts that would support
11 an allegation that Get Out Bonding got
12 preferential treatment?

13 A. I don't have any facts personally.

14 Q. Your contention is that you have been
15 disciplined and terminated because of your
16 race; is that correct?

17 A. That's correct.

18 Q. And are you making any other? And that -- I
19 take it, you're claiming that -- are you
20 claiming that were retaliated against?

21 A. Well, I was -- I was singled out I believe.

22 Q. Because of your race?

23 A. Yes.

0289

1 Q. You never complained about race discrimination
2 to anyone, did you?

3 A. I complained to Judge Gordon about the
4 mistakes about, but I did not complain to her
5 about her discriminating against me.

6 Q. And you didn't go to Personnel or the EEO
7 officer?

8 A. No. I don't -- I -- I don't even know if we
9 had one at the time. I know we did, but I
10 don't know if we did at that time.

11 Q. And you didn't complain about retaliation in
12 your EEOC charge, did you?

13 A. I don't remember. We'd have to look at that
14 again.

15 Q. I'll show you Defendants' Exhibit 40. You
16 checked race discrimination.

17 A. Right.

18 Q. In the body of your complaint, you don't

19 complain about retaliation?

20 A. No.

21 MR. JAFFREE: I'm not sure there's
22 an EEOC -- let me see. I'm not
23 sure there's an EEOC retaliation

0290

1 filed in the complaint.

2 (Off-the-Record discussion)

3 MS. NELSON: I'm not sure that a
4 section 1981, 1983 claim exists
5 by law, but that's between you
6 and me to hash out.

7 Q. And you further contend that your
8 constitutional rights were violated; is that
9 one of your contentions?

10 A. I believe so. I was told not to speak with
11 someone, and I feel like that was a violation
12 of Freedom of Speech.

13 MR. JAFFREE: Let me -- and I should
14 have done this earlier, but it's
15 better late than never.

16 You're asking her to claim
17 her relief. All of this is
18 legal stuff. You're asking her
19 to comment on the law, and she's
20 not competent to do that. She
21 doesn't even know all the legal
22 claims she has. I probably
23 don't know all the legal claims

0291

1 she has. And I'm going to
2 object to the question on the
3 basis that it covers a province
4 that she's not capable of
5 dealing with.

6 MS. NELSON: So noted. But I can,
7 at least, try to ask her facts
8 that would support what appear
9 to be her claims.

10 MR. JAFFREE: Well, I think you've
11 already asked facts that tend to
12 support her claims or not,
13 depending on your perspective.

14 Q. Do you now contend that -- one of your claims
15 appears to be false imprisonment. Are you
16 aware that you're making a claim of false

17 imprisonment?

18 A. Where are you at so I can --

19 Q. I'm on page 29.

20 MS. NELSON: Look at this. Maybe

21 you and can clarify this. She's

22 making a retaliation claim for

23 exercising in her free speech

0292

1 and association rights. That's

2 your retaliation.

3 MR. JAFFREE: I think so, yeah, not

4 based on Title VII.

5 MS. NELSON: I understand. Okay.

6 I'm with you.

7 Q. Are you making a -- on page 29, your attorney,

8 on your behalf, makes a claim of false

9 imprisonment?

10 A. Yes.

11 Q. And, again, while you may not understand all

12 the elements of false imprisonment, you

13 basically stated that this is -- you

14 were -- this was based on the fact that you

15 were questioned by the police in these

16 Internal Affairs investigations; is that

17 correct?

18 A. Yes.

19 MR. JAFFREE: Paragraph 152 comes

20 from the case, so that's what

21 she's basing it on.

22 (Brief pause)

23 Q. I'm on like paragraph 158. I think you're

0293

1 stating multiple actions based on conduct

2 that --

3 MR. JAFFREE: Which paragraph are

4 you on?

5 MS. NELSON: I'm just reading

6 through here.

7 MR. JAFFREE: Which paragraph are

8 you on?

9 (Off-the-Record discussion)

10 Q. I think we've basically covered most of the

11 factual issues.

12 Tell me, how do you contend that you have

13 been damaged as a result of your termination?

14 A. Well, I've been damaged financially.

15 Q. You were earning -- approximately, what were
16 your wages?

17 A. When I left the City? I believe it was -- and
18 I'm not sure on this. It might have been
19 right at \$16 an hour. I'm not sure if that's
20 right or not. I believe so.

21 Q. Did you have benefits?

22 A. Yes. I have not touched my RSA retirement.
23 It's still there. I was vested with the City,

0294

1 been employed for 13 years.

2 Q. Did you have health insurance?

3 A. I have it with my husband.

4 Q. Your husband? You still have that through
5 your husband?

6 A. But I had it with me, you know, and it was
7 paid for. So now he's having to pay for that.

8 Q. But you still have the benefit of it?

9 A. I still have the health insurance. Yes.

10 Q. How much money were you paying, or was the
11 City paying --

12 A. I think the employee part --

13 (Court reporter interrupted for
14 clarification.)

15 Q. How much were you paying when you were
16 employed, and what's the premium now for your
17 coverage?

18 A. I'm not sure what the employee part was, if
19 you were a city employee for yourself because
20 I was not listed under the family coverage.
21 It might have been \$10 a pay period. I'm not
22 sure.

23 Q. You had coverage, and he had coverage?

0295

1 A. Yes.

2 Q. And now you're under his family coverage?

3 A. Correct.

4 Q. And you know what -- you have your wages when
5 you worked for Headland and Newton?

6 A. Yes.

7 Q. Did you have any benefits there?

8 A. No.

9 Q. And you said you didn't had not been under a
10 doctor's care, other than your regular OB/GYN?

11 A. That's correct.

12 Q. And you're on one medication?

13 A. Yes.
14 Q. And what is that?
15 A. Effexor.
16 Q. And what is that?
17 A. It's a type of anxiety drug.
18 Q. And how long have you been on that?
19 A. I'm not sure. I know it was during my time
20 that I went back to the magistrate's office, I
21 believe.
22 Q. What's your doctor's name, the one that
23 prescribed that?

0296

1 A. The one that prescribed that?
2 Q. Yes.
3 A. Robert Cleveland.
4 Q. Is he your OB/GYN?
5 A. He is.
6 Q. Cleveland?
7 A. Yes.
8 Q. Is he really the only doctor you've seen in
9 the last five years?
10 A. Other than if I was sick, I will go to medical
11 doctor. Family is Rodney Beauchamp.
12 Q. Beauchamp?
13 A. B-E-A-U-C-H-A-M-P.
14 Q. And what pharmacies do you trade with?
15 A. Doctors Center Pharmacy.
16 Q. Sorry?
17 A. Doctors Center Pharmacy.
18 Q. Doctors Center. Anywhere else?
19 A. No.
20 Q. During the time you were employed in the
21 magistrate's office, were you ever going
22 around recording employees --
23 A. No, I was not.

0297

1 Q. -- with a tape recorder? No?
2 A. The only time I had a tape recorder is in that
3 meeting that we had.
4 Q. What meeting, now, is this?
5 A. That we -- that you have on exhibit -- I'm not
6 sure what number is where -- where personnel
7 director, Kai, was there and the judge when we
8 all had a meeting. And Lavera was talking
9 very loud and rude.
10 Q. Do you have a tape recording of that?

11 A. No. It was taken up.

12 Q. Did someone take it away from you?

13 A. Yes.

14 Q. Who was that?

15 A. Michelle Sellers.

16 Q. Did the people know they were being recorded?

17 A. Some did.

18 Q. And who knew?

19 A. I'm not sure who all knew. I -- I don't

20 know. I mean, there was -- there was a lot of

21 us in there. I'm not sure.

22 Q. And why were you recording it?

23 A. I just wanted it on record as what was being

0298

1 said in there.

2 Q. And why is there?

3 A. So nothing could be -- well, in case something

4 happened that I needed, you know, to use it.

5 If it was involving something that -- just

6 like what happened where I was mistreated and

7 nothing was done.

8 Q. And, again, I know we've been through a lot.

9 Y'all were meeting with Kai Davis as a group?

10 A. And the judge --

11 Q. In the judge's office?

12 A. -- as a group.

13 No. It was in our break room area over

14 here at this two-story building.

15 Q. And what were you meeting over?

16 A. I can't remember. I don't know. I don't know

17 if it was after the fact that Donna had left

18 and we didn't have a court administrator at

19 the time. I'm not sure. It was just --

20 Q. There was friction in the office?

21 A. Well, I'm sure. The morale was not that good,

22 so I don't -- you know, I don't remember what

23 the actual gist of the meeting was about. You

0299

1 know, we could've covered several things.

2 Q. So it was shortly after you had been back?

3 A. No.

4 Q. What date --

5 A. No. This was --

6 MR. JAFFREE: Let me. I tried to

7 see where this was going, but

8 I'm going to object to the

9 relevance. I'm not going to
10 instruct you to answer. This is
11 not --
12 MS. NELSON: It's just discovery.
13 I'm trying to --
14 MR. JAFFREE: But it's not part of
15 any defense that I know of, but
16 that was not the basis for a
17 decision.
18 MS. NELSON: Well, she's going
19 around running a tape recorder
20 of people. I'm just -- when
21 Donna Nicholson was there? I'm
22 just trying to --

23 A. No. I don't think Donna was there.

0300

1 Q. After she left?
2 A. I think it was after she left. And I wasn't
3 running around. This was one incident, and it
4 was taken up.
5 Q. And I'm trying to figure out what --
6 A. So it's not something --
7 Q. -- date this occurred.
8 A. I don't know. I don't remember.
9 Q. Was Bettye King there?
10 A. I don't know. She could have been, but I
11 don't -- I don't think we had a court
12 administrator. It might have been the time in
13 between Donna and Bettye. I'm just not sure.
14 Q. Have you ever reported to a black manager
15 before Judge Gordon?
16 A. Before Judge Gordon?
17 Q. Yeah.
18 A. Trying to think. I don't believe so. I'm
19 trying to think of my past jobs. I don't -- I
20 don't believe so. And I know that we had some
21 in the police department that would get
22 promoted and we'd get a new sergeant, but I
23 don't think any of them were black.

0301

1 Q. You didn't report to them, did you? You
2 didn't report to a black manager?
3 A. I don't believe so.
4 Q. Did you resent having to report to a black
5 manager?
6 A. No, I did not.

7 Q. Did you resent having to work with black
8 employees?

9 A. No.

10 Q. Was any of the reason you were meeting with
11 Kai Davis -- that's why I'm just trying to
12 figure out why you were meeting.

13 A. I don't know. This meeting was called, I'm
14 assuming by the judge. I don't know, and I
15 don't why Kai Davis was there. I don't know.

16 Q. But you felt compelled to tape record it?

17 A. Well, I just wanted that whatever was going to
18 be said, you know, on file. I mean, I -- I
19 just felt like that I -- I needed to do that.

20 Q. And what has been your relationship with
21 Michelle Sellers or your relationship when you
22 worked there; did the two of you get along?

23 A. Sometimes.

0302

1 Q. But sometimes you didn't?

2 A. No. She was not in our chain of command, but
3 she, at times, was very belittling and also
4 instructing us to do things that we didn't
5 feel like were appropriate regarding cases,
6 our magistrate duties that she was not
7 experienced in.

8 Q. Was she your supervisor at some point in time?

9 A. Some point in time she was, but not -- not
10 most of the time.

11 Q. And you resented having to take instruction
12 from her?

13 A. No, I didn't resent that. I didn't resent it,
14 no.

15 Q. You didn't agree with what she was instructing
16 you to do?

17 A. Well, at some -- not -- not during the
18 particular time that she was maybe our
19 supervisor. I mean, I just know there were
20 times. I don't know the dates or anything
21 or -- but I know that there were times that,
22 you know, because she wasn't experienced in
23 magistrate duties, that she would not

0303

1 understand by doing that to that or something
2 that it would not -- it's not the proper way
3 to do it.

4 Q. Did you feel like you knew more than anybody

5 else in the office?

6 A. I don't feel like I knew more than anybody
7 else, but I know that I've trained -- I
8 trained several of the people in that office.

9 And I knew that several people came to me when
10 they had questions, and I was given a little
11 bit more responsibility than others. I didn't
12 feel like I knew more than they did.

13 Q. You said sometimes she was belittling. Do you
14 feel like your tone of voice and conduct was
15 often belittling to others?

16 A. I don't know how they took it. I mean, I
17 don't know how it was received or if it, you
18 know -- I don't know.

19 Q. Now, we've been over a lot of stuff, and I'm
20 trying to wrap up. But I'm just asking if
21 we've gone over all your claims that you're
22 making against the City and the judge and if
23 you've got any other evidence or information

0304

1 that would support your claims of race
2 discrimination?

3 MR. JAFFREE: I'm not sure you've
4 covered her claims of
5 association, free association
6 claim, did you?

7 Q. Your association. I assume you're talking
8 about with Mary Turner?

9 A. He asked the question. I'm not sure.

10 Q. Do you know what -- are you claiming free
11 association?

12 A. Yes.

13 MR. JAFFREE: She may not know she
14 is, but she is.

15 A. I'm sorry. I wasn't really paying attention
16 because I knew he was talking to you. I'm not
17 sure.

18 Q. And what facts do you have to support your
19 free association claim?

20 A. What facts?

21 Q. Yes.

22 A. Well, I just don't -- I don't think that
23 someone has a right to tell you that you can't

0305

1 socialize with someone away from the job.

2 It -- you know, that's just -- that's just

3 hard for me to believe when you've got a First
4 Amendment Freedom of Speech, and I want to
5 associate with the Pope and, you know,
6 whoever. I should be -- that's my prerogative
7 to do that. I don't -- if -- if I'm going to
8 church that Sunday and she's in my Sunday
9 School class and we're discussing something,
10 I -- I'm going to be able to sit there and
11 talk to her or speak to her. I don't --
12 nobody should be allowed to tell me that I'm
13 not allowed to speak to somebody.

14 Q. Even if it's your supervisor at your job who's
15 asking you not to communicate with an
16 individual that's under police investigation
17 for a criminal offense?

18 A. She should not have a right to tell me, away
19 from my job, whether I can socialize or speak
20 to someone.

21 Q. Okay.

22 MR. JAFFREE: Your supervisor is not
23 God?

0306

1 THE WITNESS: That's correct.

2 Q. And that's your freedom of association claim?

3 A. That's --

4 Q. Okay. Do you have any other evidence that
5 would support your claims that you've been
6 discriminated against or treated differently
7 because of your race by Judge Gordon?

8 A. Just that it's -- it's very blatant that I was
9 disciplined for any little thing and was
10 internally investigated at times that I
11 shouldn't have been. And we've got Eunice and
12 Lavera who made just negligent errors with
13 people getting wrongfully arrested, which
14 violates their rights. And they're put in
15 jail, and they shouldn't have been. And
16 that's just something that when you first
17 become a magistrate, when I was up under Gayle
18 Schwarz, that was something that you just did
19 not allow to happen. And they were not
20 disciplined? So I -- I feel like that that's
21 just -- it's blatant.

22 Q. Okay. I think we've talked about that.
23 Anything else?

0307

1 A. I -- I can't think of anything right now.

2 MS. NELSON: Let me just have two
3 seconds outside with my client.

4 Q. Before we do that, really, you know, you've
5 given me all the documents that you have in
6 your possession that would support your claim?

7 A. Yes.

8 Q. And you or your attorney has given me a list
9 of people that might have knowledge about your
10 case. Most of them I think we've talked
11 about. Donna Snell?

12 A. That's Donna Nicholson. She's a Snell now.

13 Q. Thank you.

14 Gary -- we're have not talked about Gary
15 Shirah. What knowledge would he have about
16 your claims and your case?

17 A. I know he was a former magistrate. I don't
18 think we mentioned him. He now works in the
19 business license division.

20 Q. And what knowledge would he have about --

21 A. I'm not sure, other than that -- errors that
22 were made.

23 Q. Jerry Corbin? What knowledge would he have

0308

1 about your claims?

2 THE WITNESS: I think he was for
3 Nancy, wasn't he, on Nancy's --

4 A. I'm not sure. I think he was the acting city
5 manager at some point in time.

6 Q. You know if he had any involvement in any
7 matters or discipline affecting you?

8 A. I'm not sure. I think he -- I'm not sure if
9 he was acting city manager or not. I -- I
10 don't know.

11 Q. Mike West? Would he have any knowledge about
12 the claims you're making against the City?

13 A. I'm not sure. He was -- he's just a city
14 manager. I don't know.

15 Q. Kalia Spears Lane, would she have any
16 knowledge about the claims you're making?

17 A. I'm not sure.

18 Q. I'm just asking.

19 A. Well, I mean, I don't know because I don't
20 know if this is including Nancy's witnesses or
21 not.

22 Q. I'm just asking --

23 A. Oh, for me?

0309

1 Q. I'm just asking for your case?

2 A. Not to my knowledge. No.

3 Q. Mike Etness, we talked about him.

4 A. Yes, we did.

5 Q. Steve Parrish?

6 A. I don't think so. He might have been the
7 captain over CID. I'm not sure. I don't -- I
8 don't think he has anything to do -- he might
9 have been involved in Mary's criminal stuff.

10 I'm not sure.

11 Q. Don Thompson?

12 A. I think that's Nancy's witness. I don't think
13 he has anything to do with mine.

14 Q. Rickey Stokes?

15 A. We talked about him.

16 Q. I think you've told me everything that Rickey
17 Stokes may have knowledge about in your case?

18 A. Yes.

19 Q. Tim Dickerson?

20 A. He's another bondsman.

21 Q. Would he have any knowledge?

22 A. I don't think about mine, no.

23 Q. And then there's some municipal defendants

0310

1 listed here, Michael Rudnick?

2 A. I don't know unless it was some that show
3 where errors were made. I'm not sure.

4 Q. Carmen Caster?

5 A. I don't know. We'll just have to pull the
6 file. I'm mean, I'm not sure.

7 Q. I'm just asking you if you know.

8 A. I mean, the names are familiar.

9 Q. Donald Earl Hauser?

10 A. Hauser.

11 Q. Hauser? You don't know?

12 A. I don't know.

13 Q. Cecil Eubanks?

14 A. I don't know.

15 Q. James Richard Culver?

16 A. That names rings a bell. I mean, could be,
17 you know, some error that they made. I'm not
18 sure. We'd just have to pull the paperwork
19 and look at it.

20 Q. Christopher Lee Carroll?

21 A. It sounds familiar.

22 Q. Malcolm Rescoe Davis?

23 A. I'm not sure about that one.

0311

1 Q. Jerry Jessie?

2 A. I don't know.

3 Q. You've got to speak up.

4 A. I don't -- I'm sorry. I don't know. I don't

5 --

6 Q. Well, your attorney must have gotten these
7 from somewhere. I'm just --

8 A. Well, I mean, it could be for Nancy's stuff,
9 too. I don't know.

10 Q. I'm just asking if you know. Janasky Boykin?

11 A. Boykin, that's sounds familiar.

12 Q. But nothing that you can --

13 A. Well, I mean, we'd have to -- those are just
14 names that stand out that we'd have to pull
15 the paperwork to see. I mean, I couldn't
16 really tell you for sure.

17 Q. "Stand out" that what?

18 A. Well, I mean, they could've been falsely
19 arrested. I'm not sure.

20 Q. Trael Steven?

21 A. The name doesn't do anything.

22 Q. Gregory Powe?

23 A. I do believe he was falsely arrested. I'm not

0312

1 sure if that's the one that was with the cash
2 bond incident or not. I'm not sure.

3 Q. What cash bond incident?

4 MR. JAFFREE: Yeah, what cash bond
5 incident?

6 Q. What cash bond incident?

7 A. I think that's with Nancy's.

8 MR. JAFFREE: That's Nancy's?

9 THE WITNESS: I think so.

10 Q. Well, do you have knowledge of it?

11 A. Well, it's what they told me. I mean, you
12 know.

13 Q. Who told you what?

14 A. I don't -- but I'm not going to say that
15 that's the person for sure because I know that
16 there was an incident with a cash bond that --
17 when Michelle Bryan was going into the
18 courtroom in the side door one day, she -- and

19 this is her telling me.

20 Q. Okay.

21 A. She said that Judge Gordon -- in her office
22 was Judge Gordon, Eunice, a grandmother I
23 think -- it may have been the mother. And

0313

1 then the defendant had been arrested, and he
2 shouldn't have been. And there was -- she
3 posted a cash bond for him to get out. And
4 she wanted to know how to get her cash bond
5 money back. So that -- I'm not sure if that's
6 the one, if it was Gregory Powe or not. I
7 don't know.

8 Q. And who do you -- you don't know really why
9 he's listed?

10 A. He could be because of that. I'm not sure.

11 Q. And who are you claiming was involved in that
12 cash bond?

13 A. Eunice Knight.

14 Q. And other than what you've heard, you really
15 don't have any personal knowledge about it?

16 A. Not other than what Michelle told me.

17 Q. Michelle Bryan?

18 A. Yes.

19 Q. And Theron Fondren, we've talked about him?

20 A. Yes.

21 MS. NELSON: If you could give us
22 just a second, or we can step
23 out or y'all can step out.

0314

1 MR. JAFFREE: We'll step out.

2 (Brief pause)

3 MS. NELSON: Okay. I believe that's
4 all I have right now.

5 EXAMINATION

6 BY MR. JAFFREE:

7 Q. You testified on direct or from the questions
8 that counsel for the City asked you that you
9 and Mary Turner were friends; is that correct?

10 A. Yes.

11 Q. Would you characterize yourself as close
12 friends?

13 A. Yes.

14 Q. And what do you mean by that.

15 A. Well, we not only went to church together,
16 we -- we'd go out to eat lunch together. We

17 socialized away from work. We -- we'd go to
18 each other's house for supper or dinner. We'd
19 go to her sister's house. She has a pool, and
20 we've had some parties or, you know, get
21 togethers over there. So there's just, you
22 know -- we'd go shopping together.

23 Q. Did y'all socialize on a regular basis?

0315

1 A. Yes.

2 Q. During the time you were employed with the
3 City?

4 A. Yes.

5 Q. Did you feel that a person acting as an
6 administrative supervisor had the right to
7 literally tell you not to make contact with
8 somebody who was a close friend?

9 A. I don't think she has a right to.

10 Q. To comply with her directive, do not contact
11 this person for an indefinite time, would that
12 have frustrated your rights to socialize with
13 this person?

14 Do you understand the question?

15 A. No. I'm sorry. Repeat.

16 Q. Listen carefully.

17 A. It's been a long day.

18 Q. For someone to tell you not to make any
19 contact with Mary Turner, would that have
20 frustrated your right to socialize with
21 Ms. Turner and have a relationship with her?

22 A. Yes.

23 Q. Did you interpret the no contact to be, don't

0316

1 contact her for any reason?

2 A. I understood it to be while we were at work or
3 while I was working.

4 Q. And did you think that contact was limited
5 just to any matter relating to the
6 investigation?

7 A. Yes. I thought it meant about the
8 investigation that was going on.

9 Q. Were you in a position to notify Ms. Turner of
10 anything that could be useful to her with
11 respect to the investigation?

12 A. No.

13 MS. NELSON: Object to the form.

14 MR. JAFFREE: Thanks.

15 Q. Now, you stated earlier that the two black
16 magistrates, Lavera and --

17 A. Eunice.

18 Q. -- Eunice made mistakes.

19 A. Yes.

20 Q. Data entry mistakes and mistakes on forms.

21 And I think in response to the question, you

22 said, other people may have made mistakes.

23 Could you compare the mistakes that Eunice

0317

1 and Lavera made with respect to the other

2 magistrates' mistakes?

3 A. Well, I don't know if they had mistakes where

4 people were falsely arrested, the other

5 magistrates. I don't know. But I know that,

6 you know, there might have been some clerical

7 data entry or -- I don't know that as far as

8 personal knowledge. But --

9 Q. Do you know whether or not Eunice and Lavera

10 made numerous mistakes?

11 A. Yes, I do.

12 Q. Were you present during the testimony of the

13 auditor with respect to the mistakes that she

14 discovered?

15 A. Yes, I was.

16 Q. And I think you testified earlier that at some

17 point the judge told you that anybody makes

18 errors?

19 A. Yes.

20 Q. When she terminated you for allegedly making a

21 data entry error, did she tell you that

22 everybody makes mistakes?

23 MS. NELSON: Object to the form.

0318

1 A. No.

2 Q. On speaking about that data entry -- let me

3 see what exhibit that is. I think Exhibit

4 34. Now, I notice here on Exhibit 34 next to

5 Stephen Phelps' name, there is no case number

6 indicated; is that correct?

7 A. That's correct.

8 Q. Now, why was there no case number indicated?

9 A. Because I didn't have the ticket.

10 Q. All right. And you said, sometimes because of

11 how busy magistrates are, you have the

12 officers swear to these transmittals before

13 you go through and compare the tickets with
14 the entries that the officer had made; is that
15 correct?

16 A. Yes.

17 Q. Would you say that's unique to you or other
18 magistrates did the same thing?

19 A. I have -- I have witnessed other magistrates
20 do the same thing.

21 Q. Were you ever given a directive of what to do
22 when you're busy and the police officers give
23 you these things with the tickets whether or

0319

1 not you should rely on what they say or stop
2 what you're doing and go through them ticket
3 by ticket?

4 A. I don't think there's anything that states
5 that we must sit there and compare both the --
6 the transmittal to the tickets and vice versa.

7 Q. All right. Was it your testimony that when
8 you started matching the tickets with the
9 names on this transmittal, you found a ticket
10 missing?

11 A. Yes.

12 Q. And I think it was your testimony that prior
13 to putting "void" in, you made a contact with
14 Officer Duhaime, is it?

15 A. Duhaime.

16 Q. And asked him, what's with this ticket?

17 MS. NELSON: Object to the form.

18 A. Yes.

19 Q. And the officer stated --

20 A. That he voided the ticket.

21 Q. Now, did you have any reason to believe at
22 that time -- this was back in 2002 -- that a
23 police officer didn't have a right to void a

0320

1 ticket?

2 A. Ask that again, please.

3 Q. Did you have any reason to believe in 2002
4 that a police officer didn't have a right to
5 void a ticket?

6 A. No.

7 Q. Now, when you said, voided, you didn't see the
8 ticket, did you?

9 A. No, I did not.

10 Q. You know if he wrote "void" on it or not?

11 A. No.

12 Q. If he voided the ticket but didn't write
13 "void" on it, you would have no way of
14 knowing?

15 A. That's right.

16 Q. So this entry that you made was based purely
17 on what he said?

18 A. Correct.

19 MS. NELSON: Object to the form.

20 Q. Now, you were shown Exhibit Number 31 for
21 category of major offenses, and you were
22 accused of committing a major offense because
23 you put void in this column to reflect what

0321

1 the officer told you, correct?

2 A. Correct.

3 Q. Do you see anything on Exhibit 31 that
4 suggests that if you negligently or carelessly
5 put a data entry in, that you have committed a
6 major offense?

7 MS. NELSON: Object to the form.

8 (Brief pause)

9 A. No.

10 Q. Let me ask you this: Your putting void on
11 this transmittal form, would that be
12 considered a data entry?

13 Do you understand? Is void an indication
14 of a status?

15 MS. NELSON: Object to the form.

16 Q. Do you understand the question?

17 A. No, I'm sorry.

18 Q. All these items on here, on this form, is that
19 considered data entries?

20 Do you understand what a data entry is?

21 A. My keying it into the computer? Is that --

22 Q. Well, not necessarily keyed into the
23 computer.

0322

1 A. I'm sorry.

2 Q. But do you know what data is?

3 A. Yes. It's information.

4 Q. Information?

5 A. Right.

6 Q. Do all these numbers represent information?

7 A. Yes.

8 Q. Does this voided represent information?

9 A. Yes.

10 Q. So these entries represent information,
11 correct?

12 A. Correct.

13 Q. Data, correct?

14 A. Correct.

15 Q. They are entered on something, right?

16 A. Correct.

17 Q. So these would've been considered data
18 entries?

19 MS. NELSON: Object to the form.

20 A. Correct.

21 Q. Correct? Okay. So this is a representation
22 of a data entry?

23 A. Yes.

0323

1 Q. And you got accused of negligently putting
2 that data entry in?

3 A. Yes.

4 Q. And you said that you don't see on Exhibit 31
5 where any of these things for negligently
6 putting any data entry in is a major offense?

7 A. That's correct.

8 Q. But let's assume that it is. Do you know for
9 a fact that Lavera put in negligent data
10 entries on anything, a computer or form or
11 anything?

12 A. Yes.

13 Q. Do you know for a fact whether Eunice has ever
14 committed a data entry error?

15 A. Yes.

16 Q. Do you know if the judge -- the defendant, the
17 judge here, was aware that Eunice had
18 committed a data entry error?

19 A. Yes.

20 Q. Do you know for a fact whether the judge was
21 aware that Lavera had committed a data entry
22 error?

23 A. Yes.

0324

1 Q. Okay. Do you know whether or not Lavera has
2 ever been suspended for ten days?

3 A. No.

4 Q. Do you know for a fact whether Eunice has ever
5 been suspended for ten days?

6 A. No.

7 Q. You don't or they were not?

8 A. To my knowledge, they were not.

9 Q. You mean, from the time you were there?

10 A. Right.

11 Q. Would you have known it if they were suspended
12 for ten days?

13 A. Sure I would have.

14 Q. So to your knowledge, neither one of them were
15 suspended for ten days?

16 A. That's correct.

17 Q. All right. During the time you were there,
18 were either of them terminated for putting in
19 a negligent data entry?

20 A. No.

21 Q. As far as you know, were either of them
22 disciplined in any manner for putting in a
23 negligent data entry?

0325

1 A. No.

2 Q. If you were terminated for putting in a
3 negligent data entry and if they didn't
4 receive any discipline at all for putting in a
5 negligent data entry, would you say that you
6 were treated differently than they?

7 A. Yes.

8 Q. Were you, Eunice, and Lavera all magistrates?

9 A. Yes.

10 Q. With the same status?

11 A. Yes.

12 Q. Same job duties --

13 A. Yes.

14 Q. -- responsibilities?

15 Were they of the same racial group as you?

16 Do you understand about racial?

17 Were they of a different race?

18 A. Yes.

19 Q. So these two were black individuals or
20 African-American?

21 A. Yes.

22 Q. These same African-Americans committed the
23 same category of offense that you did,

0326

1 correct?

2 A. Yes.

3 MS. NELSON: Object to the form.

4 Q. Well, did they -- as far as you know, did each

5 commit a data entry error?

6 A. Yes.

7 MS. NELSON: Object to the form.

8 Q. And they were treated differently; is that
9 correct?

10 A. Yes.

11 Q. Is that discrimination in your mind?

12 A. Yes, it is.

13 Q. Now, do you know for a fact whether or not the
14 two of them were treated differently than
15 other whites that worked in that department?

16 Do you understand the question?

17 A. I'm sorry.

18 Q. Maybe I need to rephrase my questions. Do you
19 know if Lavera and Eunice were treated
20 differently than other white magistrates?

21 A. Yes.

22 MS. NELSON: Object to the form.

23 Q. Are you aware of another black magistrate that
0327

1 got hired?

2 A. Yes.

3 Q. Are you familiar with any incidents where the
4 Defendant Judge Gordon went out of her way to
5 benefit this black magistrate that got hired?

6 MS. NELSON: I'm sorry. Say that
7 again.

8 Q. Do you know of any incident where the
9 defendant judge went out of her way to benefit
10 this black magistrate that was hired?

11 A. All I know is from what Nancy has talked to me
12 about since we've been terminated from the
13 City.

14 Q. And what magistrate are you referring to?

15 A. Tonya Minifield.

16 Q. Do you know anything with respect to finding
17 Tonya an office when she first got hired?

18 A. Yes.

19 Q. And what do you know?

20 A. Well, I know that they -- they moved some
21 magistrates around, and we actually asked the
22 city manger from what I -- or, well, I say
23 we. I say judge; I guess the department
0328

1 head -- asked to -- because the building that
2 they're currently in, we only had so much

3 office space out of that building. So in
4 order to acquire additional room, it had to be
5 approved through the city manager. And I
6 understand that Valarie was moved to that
7 office, and I'm not sure if Michelle Bryan was
8 moved to Valarie's old office or if Tonya got
9 Valarie's old office. But I do know that they
10 made an office for her.

11 Q. Was she high on the seniority roster, Tonya?

12 Do you understand the question?

13 A. That I'm not sure of.

14 Q. We're talking about Tonya?

15 A. Yes.

16 Q. Do you understand what I mean by, high on the
17 seniority roster? I'm talking about between
18 the magistrates that were currently working --

19 A. Oh, okay. I'm sorry.

20 Q. -- do you know if she was higher on the
21 seniority?

22 A. No. She was -- she was on the bottom.

23 Q. She was the lowest thing on the totem pole?

0329

1 A. Yes.

2 Q. And efforts were made to get her a nice
3 office?

4 MS. NELSON: Object to the form.

5 A. Yes.

6 Q. You're quite sure of that?

7 A. Yes.

8 Q. Can you think of any reason, other than she
9 was a minority, that efforts were made to get
10 her a good office?

11 A. Not to my knowledge. I know that Mary Turner
12 asked for an office, and she was told she
13 didn't need one.

14 Q. Mary Turner is what color?

15 A. White.

16 MS. NELSON: Object to the form.

17 Hearsay.

18 MR. JAFFREE: Mary Turner being
19 white is hearsay?

20 Q. Okay. All right.

21 MS. NELSON: No. That's not why I
22 was objecting.

23 Q. Y'all implemented a new commuter system; is

0330

1 that correct?

2 A. Correct.

3 Q. And, so, when the system was just starting,
4 errors in data entry could be expected, right?

5 A. Sure.

6 Q. When did the system, you think, get
7 implemented?

8 A. I don't remember. I don't --

9 Q. Do you recall what year?

10 A. I know that we were over here at the two-story
11 building on the corner. But I'm not -- I know
12 that -- I'm not sure if Donna was here or
13 not.

14 Q. Let me ask you this: After the system had
15 been implemented and the people had an
16 opportunity to get familiar with the system,
17 were Eunice and Lavera still making data entry
18 errors?

19 A. Yes.

20 (Brief pause)

21 Q. Now, I noticed on Exhibit 15 and all other
22 exhibits dealing with employee job performance
23 evaluations, you indicated "concur" or "I

0331

1 concur" and some variant of those terms on
2 every single one. Why did you do that?

3 A. I just -- that's just the word I used. I
4 didn't -- you know, I used that on all of
5 them.

6 Q. Did you intend by the use of that word to
7 agree with every entry that was on this
8 document?

9 A. No, not everything. And I felt like if I
10 wrote something that I didn't agree with,
11 I -- you know, it would be used against me.

12 Q. For instance, on Exhibit 15, on page 2, number
13 8, dealing with the public, it says, "Recently
14 there have been complaints from attorneys
15 regarding the way they were talked to by Mary
16 Beth."

17 Did you agree with that?

18 A. No, because I didn't never -- it wasn't
19 brought to my attention or who was
20 complaining.

21 Q. Did any attorney ever tell you that they
22 disliked the way you were speaking with them?

23 A. No.

0332

1 Q. And in your opinion, did you ever speak in an
2 unprofessional to an attorney?

3 A. Not to my knowledge.

4 Q. Do you recall whoever was the evaluator, Donna
5 Nicholson, providing you with specificity as
6 to what attorneys had complained?

7 A. No.

8 Q. Did anybody ever show you a memo or letter
9 from an attorney, indicating a complaint?

10 A. No.

11 Q. So when you said you -- and all you said here
12 is "concur," you did not intend to concur with
13 this item here on page 2, item number eight?

14 MS. NELSON: Object to the form.

15 A. That's correct.

16 (Brief pause)

17 Q. Now, on Exhibit Number 7, you also -- did I
18 mention -- this is 7 I just mentioned --
19 concur. And it states here in Section 3 that
20 "she has corrected some problems she has had
21 in communication skills with dealing with the
22 public."

23 Did you concur that you had problems in

0333

1 your communication skills in dealing with the
2 public?

3 A. No.

4 Q. So when you concurred, you did not intend to
5 concur that you had problems --

6 MS. NELSON: Object to the form.

7 Q. -- in dealing with the public?

8 A. That's correct.

9 Q. Did anybody explain to you what they meant by
10 problems with communication skills in dealing
11 with the public?

12 A. No.

13 Q. So you don't know what they were referring to?

14 A. No.

15 Q. And the same thing was mentioned in
16 Defendants' Exhibit Number 8. You said, "I
17 concur." And there's an entry here that "she
18 is currently showing some problems in the area
19 of communication with the public and other
20 employees along with some poor attitude."

21 Did you intend to concur with that
22 comment?

23 A. Well, I didn't -- no. I mean, I disputed
0334

1 the -- you know, I didn't agree with her -- I
2 mean, with what she said.

3 Q. Okay. Well, did she indicate to you in detail
4 what kind of poor attitude you have?

5 A. No, not that I recall.

6 Q. What type of communications with the public
7 that you had?

8 A. Not that recall.

9 Q. Was there ever a performance plan drafted for
10 you to tell you how you should approach the
11 public versus the way you were approaching the
12 public?

13 A. I'm not sure if there was. I don't know.

14 Q. Was it ever given to you?

15 A. I don't -- I don't recall one given to me.

16 Q. Try to stay awake a few more minutes.

17 A. Let me get some water.

18 (Brief interruption)

19 Q. Let me show you what's been marked by the
20 Defendant as Exhibit 16, this document right
21 here (indicating).

22 I think on direct testimony, you stated
23 that Ms. Sellers had informed you that if you
0335

1 didn't sign that document, you would be
2 considered insubordinate?

3 A. That's correct.

4 Q. Did Ms. Sellers present herself as an agent
5 for the Defendant Gordon?

6 Do you understand the question?

7 A. Yes.

8 MS. NELSON: Object to the form.

9 Q. Did you think that Ms. Sellers was providing
10 you this document on behalf of Judge Gordon?

11 A. Yes.

12 Q. Do you have reason to believe that Ms. Sellers
13 drafted this document and forged Judge
14 Gordon's name and submitted that on her own
15 behalf?

16 A. No.

17 Q. Do you think Ms. Sellers would have told you
18 that if you didn't sign that, you'd be

19 insubordinate without getting prior clearance
20 from Defendant Gordon to tell you that?

21 A. I would hope not. I don't know.

22 Q. So was it your opinion at the time that you
23 were required to sign that in order to keep

0336

1 your job?

2 A. Yes.

3 Q. Now, do you remember the first police
4 interrogation that you had?

5 MS. NELSON: Object to the form.

6 A. Yes.

7 Q. Or what the defense has referred to as, I
8 guess an investigation, but it was something
9 you were required to attend, correct?

10 A. Yes.

11 Q. And were one or two police officers present
12 when you first -- at the first one you had?

13 A. Two.

14 Q. Do you remember when that was?

15 A. It was in November of 2001.

16 Q. And that was involving the alleged claim that
17 you referred to somebody as incompetent?

18 MR. JAFFREE: Object to the form.

19 A. I don't know about incompetent.

20 Q. Well, some public defender --

21 A. Yes.

22 Q. -- as being incompetent or not knowing what
23 they were doing or something.

0337

1 A. Yes.

2 Q. There was an accusation made to that effect?

3 A. Yes.

4 Q. And during this police interrogation, did you
5 get the impression that officers involved were
6 attempting to get you to admit --

7 A. Yes.

8 Q. -- that you had accused a public defender of
9 being incompetent?

10 A. Yes.

11 Q. And told the defendant to obtain the services
12 of somebody else?

13 A. Yes.

14 Q. Do you know if they presented the results of
15 their interrogation to Defendant Gordon?

16 MS. NELSON: Object to the form.

17 A. I'm not sure if they did or not. I mean, it
18 was -- I know that it was on my evaluation. I
19 don't know what the outcome of that was. I
20 don't know if -- you know, I don't know.
21 Q. Other than that police interrogation, did the
22 evaluator who placed that information on your
23 evaluation ask you for your side of the story?

0338

1 MS. NELSON: I'm confused. You're
2 asking her about what now?
3 Q. We're talking about this first incident --
4 A. Right.
5 Q. -- of police interrogation.
6 A. Right.
7 Q. And you provided the police with your side of
8 the story; is that correct?
9 A. That's correct.
10 Q. Then you subsequently saw that incident on an
11 evaluation?
12 A. Correct.
13 Q. And my question was, did the evaluator give
14 you an opportunity to give your side of the
15 story before they put that entry in the
16 evaluation?
17 A. I don't know if Donna did or not. She's the
18 one that evaluated me. I'm not sure if she
19 asked me.
20 Q. Do they generally have -- the evaluators have
21 the evaluations done prior to talking to you?
22 A. Yes.
23 Q. So most of the entries are already in there

0339

1 when they talk to you?
2 A. Yes.
3 Q. So this entry concerning that event may have
4 already been placed on your evaluation form --
5 A. Yes.
6 Q. -- before you got spoken to?
7 A. Correct.
8 Q. Okay. And had Donna talked to you or whoever
9 was the evaluator -- I don't want to go back
10 and try to retrieve that exhibit. But had
11 Donna and whoever the evaluator had spoken to
12 you and got your version, your version doesn't
13 appear on the evaluation form, does it?
14 A. No, it does not.

15 Q. And there's no star indicating that you
16 dispute these facts?

17 A. That's correct.

18 Q. And I think you testified earlier that your
19 concurrence did not mean that you agreed with
20 those facts?

21 A. That's correct.

22 Q. The next police interrogation, do you know
23 what that was about?

0340

1 A. Yes, I do.

2 Q. What was that about?

3 MS. NELSON: Object to the form.

4 A. That was the Theron Fondren incident with --
5 an investigation with Sergeant Gary Coleman
6 and Sergeant Ray Owens.

7 Q. Were you instructed by Defendant Gordon or her
8 agent or servant or employee to attend that
9 interrogation?

10 A. Yes.

11 Q. Were you required to -- I'm not sure you
12 signed the form, but they gave you a form
13 telling you that you had to --

14 A. Yes.

15 Q. -- attend that interrogation?

16 A. Well, I signed the forms, too, at the
17 beginning of the interrogation for the police
18 department.

19 Q. But you don't have access of those?

20 A. I asked for copies of those, and I was never
21 presented with them.

22 Q. Okay. Did you feel, at that interrogation,
23 you were free to leave at any time without the

0341

1 loss of your job?

2 A. No.

3 Q. What about the first interrogation that you
4 testified to earlier; did you feel you were
5 free to leave there?

6 A. No.

7 Q. So you felt that if you left, there would be a
8 consequence?

9 A. Sure.

10 Q. So did you feel you were free to not answer
11 their questions?

12 A. No. I was told that I had to cooperate fully.

13 Q. And if you didn't cooperate fully, what did
14 you think would happen?

15 A. I would be fired.

16 Q. Now, did the judge have any time in her busy
17 week in which to talk to you to ask you the
18 same questions that the police officers asked
19 you?

20 A. She did not.

21 Q. Did she have the time?

22 A. I feel like she did, yes.

23 Q. You said she's off on Fridays?

0342

1 A. Yes.

2 Q. So she could have taken the time to ask you
3 your version of events?

4 A. Yes.

5 MS. NELSON: Object to the form.

6 Q. How long do think it would have taken for you
7 to tell her your version of events?

8 MS. NELSON: Object to the form.

9 A. Not long.

10 Q. Like how long?

11 A. I -- I don't know. I mean, I don't --
12 depending on how she would ask me if she would
13 ask me questions or if I were just to tell to
14 her what happened. I don't know how long it
15 would take. It wouldn't take long.

16 Q. This is the Fondren, right, the Fondren case,
17 the Fondren matter, the second interrogation?

18 A. Yes. Yes.

19 Q. Now, did Mr. Fondren come to you on that day?

20 A. Yes, he did.

21 Q. Did you know Mr. Fondren prior to his coming
22 to you?

23 A. No, I did not.

0343

1 Q. Do you have any idea why he picked you out to
2 come visit?

3 A. I don't know.

4 Q. Did he mention you by name?

5 A. Yes, he did.

6 Q. Did you tell him at the time he mentioned you
7 by name, Mr. Fondren, guess what --

8 MS. NELSON: Object to the leading.

9 Q. Did you suggest to Mr. Fondren in any way that
10 he had been falsely arrested?

11 A. No.

12 Q. Did you know he had been falsely arrested?

13 A. I don't remember. I'm sure I --

14 Q. Prior to his coming to you?

15 A. Prior to? No. No.

16 Q. How would you know?

17 A. I didn't even know -- no. He just came up to
18 me and asked me.

19 Q. Prior to his coming to you, did you make a
20 telephone call to him and tell him you wanted
21 to see him?

22 A. No.

23 Q. So if the City's version of events is to

0344

1 believe Mr. Fondren came to you and you just
2 told him that he had been falsely arrested?

3 MS. NELSON: Object to the form.

4 Q. Correct?

5 A. That's what they said, yes.

6 Q. But your testimony was that he told you that
7 he was falsely arrested?

8 A. Yes.

9 Q. And did you tell this to the police officers
10 doing the investigations?

11 A. Yes, I did.

12 Q. Did you tell this to the judge?

13 A. I'm not sure if we discussed -- I don't think
14 she went over that with me. I'm not sure.

15 Q. But four months later, you suddenly got notice
16 that you were being suspended?

17 A. Correct.

18 Q. And during the interim, you don't have any
19 recollection of anybody talking to you, other
20 than the police? The police talked to you
21 during this interrogation?

22 A. Correct.

23 Q. And then four months later, you got a notice

0345

1 telling you that you had been terminated?

2 A. That's correct.

3 MS. NELSON: Object to the term

4 "terminated."

5 Q. I'm sorry. Suspended.

6 Did you lose income during the time you
7 were suspended?

8 A. Yes, I did.

9 Q. Were you humiliated during the time you were
10 suspended?

11 MS. NELSON: Object to leading.

12 A. I was upset.

13 Q. Did other people in your department know that
14 you were suspended?

15 A. I'm -- I'm sure they were. I mean, I'm sure
16 they did. I don't know. I mean, I don't know
17 what the judge told them or if anybody told
18 them anything.

19 Q. Now, after you returned back from your
20 suspension, did you immediately start working
21 or did you have to talk to the judge first?

22 A. I'm not sure if Nancy and I were told to go
23 there first thing or if it was during the

0346

1 course of the day. I'm not sure.

2 Q. It would either have been the first thing or
3 the course of the day?

4 A. Yes.

5 Q. Did the judge tell you that somebody was
6 dissatisfied with your attitude?

7 A. No.

8 Q. Did the judge initiate the conversation about
9 whether you wanted your job, or did you
10 initiate it?

11 A. She did.

12 (Brief pause)

13 Q. Okay. I'll direct your attention to
14 Defendants' Exhibit 30. Nancy Martin
15 completed this evaluation; is that correct?

16 A. That's correct.

17 Q. December 30?

18 A. Yes, sir.

19 Q. And she indicates here on the bottom of the
20 first page that this major offense that you
21 allegedly committed was not during her tenure?

22 A. Right.

23 Q. Is that correct?

0347

1 A. That's correct.

2 Q. So this marking that she gave you was not
3 something based on her direct knowledge?

4 A. That's correct.

5 Q. And on this next page, this item number eight,
6 dealing with the public, was based on that

7 same incident; is that correct?

8 A. I -- I assume that is. That's what I
9 understood.

10 Q. Well, I'll tell you what she said. "Mary Beth
11 deals with the public satisfactory from my
12 observation. She was determined to have
13 committed a major offense recently with regard
14 to dealing with dealing with a defendant and
15 what was said to him."

16 So she gave you a bad marking, again,
17 based on something that did not occur during
18 her tenure?

19 A. That's correct.

20 Q. So this would be a marking that somebody
21 instructed her to make?

22 A. I would think so because she -- she didn't
23 know about it.

0348

1 Q. Who would be in a position to instruct Nancy
2 to put anything on your evaluation?

3 A. I assumed it would be the department head.

4 Q. And who would that be?

5 A. Judge Gordon.

6 Q. Can you think of anyone else within the
7 magistrate's office of being in a position to
8 instruct Nancy to put some markings on your
9 evaluation?

10 A. No.

11 Q. So either she did it on her initiative or she
12 did it at the request of somebody in the
13 position to make that request, right?

14 A. Yes.

15 Q. And the only person that could have been was
16 the Defendant Gordon; is that correct?

17 A. That's correct.

18 Q. Now, you indicated an Officer Etrass -- how do
19 you pronounce his name?

20 A. Which --

21 Q. He talked to you about this ticket, this --

22 A. Etrass.

23 Q. Yeah, Etrass. Did he talk to you in his

0349

1 office or what?

2 A. Yes, in his office.

3 Q. Who instructed you to go and talk to him?

4 A. I don't -- I'm not sure. I believe he called

5 and asked me to come to his office. I'm not
6 sure if he did or if Judge Gordon did. I'm
7 not sure. I don't remember.

8 Q. Did you consider that a form of interrogation?

9 A. Yes.

10 Q. Did Officer Etress tell you to answer his
11 questions?

12 A. I believe so.

13 Q. Did you feel you were free to leave at anytime
14 and not --

15 A. No.

16 Q. -- answer his questions?

17 A. No.

18 Q. Do you have an opinion as to the consequences
19 of what would happen had you left --

20 A. I --

21 Q. -- without his permission?

22 A. I would've been probably written up or
23 something else happen. I mean, I felt like I

0350

1 had to stay and do what he instructed.

2 Q. The ticket that he talked to you about, did
3 you have anything to do with that ticket?

4 A. No.

5 Q. That was the ticket that you had no knowledge
6 of, correct?

7 A. Correct.

8 Q. And you haven't been charged with anything
9 related to that ticket; is that correct?

10 A. That's correct.

11 Q. Now, sometime later, the police officers again
12 had you in for interrogation?

13 A. Yes.

14 MS. NELSON: Object to the form.

15 Q. And I think you testified about a lie
16 detector?

17 A. Yes.

18 Q. Exactly how did that come up?

19 A. I'm not -- you know, the only thing I know is
20 that Sergeant Gray was adamant that the leak
21 about Mary's investigation came from someone
22 in our office, and that his comment was that
23 if he felt like somebody was lying, he would

0351

1 administer a lie detector test and we could
2 not refuse.

3 Q. I see. And did he ask you during that
4 conversation about your -- any contact you had
5 had with Mary?

6 A. I don't remember if it was the first incident
7 or the second time. I think it was the second
8 time he questioned me that he asked me about
9 if I had any contact with Mary.

10 Q. You mentioned that he interrogated you a
11 second time the very next day?

12 A. I believe it was the next day.

13 Q. Was the purpose of this interrogation?

14 A. He asked me if I had any contact with Mary.

15 Q. Do you have any idea what would have motivated
16 him to ask you about Mary the very next day?

17 A. I don't know.

18 Q. Do you know if he asked anyone else about
19 Mary?

20 A. I don't know.

21 Q. Okay.

22 A. I don't know.

23 Q. And were you honest with him about your

0352

1 contacts with Mary?

2 A. Yes.

3 Q. And did you tell him the nature of the
4 contact?

5 A. Yes.

6 Q. Did your feel you had done anything wrong?

7 A. No.

8 Q. Subsequent to that conversation with -- was it
9 Officer Gray?

10 A. Yes.

11 Q. Did you talk with Defendant Gordon subsequent
12 to your conversation with Officer Gray?

13 A. Other than just that meeting that she had with
14 all of us.

15 Q. Well, that was prior to --

16 A. That was prior to that.

17 Q. But subsequent --

18 A. No. Well, other than -- other than putting me
19 on administrative leave.

20 Q. Did she have a discussion with you when she
21 put you on administrative leave?

22 A. She just told me -- handed me the memo and
23 told me to hand over my keys.

0353

- 1 Q. She didn't ask you your version of events?
2 A. No. No.
3 Q. She didn't ask you, why did you feel the need
4 to talk to Mary?
5 A. No.
6 Q. She didn't ask you anything about the nature
7 of your conversation with Mary?
8 A. No.
9 Q. So she just said, you're summarily on
10 administrative leave?
11 A. Yes.
12 Q. Okay. And were you subsequently notified that
13 you were terminated?
14 A. Yes.
15 Q. You were asked earlier about whether or not
16 you felt the white employees that commit
17 errors should be disciplined, and you said
18 yeah. But as far as you know, white employees
19 that committed any kind of misconduct, have
20 they been disciplined?
21 MS. NELSON: Object to the form.
22 A. I'm sorry?
23 Q. Are you aware of white employees who were
0354
1 accused of any kind of misconduct being
2 disciplined?
3 A. Other than just what --
4 Q. Do you understand the question?
5 A. Ask me again.
6 Q. Are you aware of any white employees who were
7 accused of misconduct being disciplined by
8 Defendant Gordon?
9 A. No, not --
10 Q. Listen to the question.
11 MS. NELSON: You don't like her
12 answer. Let her answer.
13 MR. JAFFREE: Well, she's not
14 listening to the question.
15 Q. Listen to the question.
16 MS. NELSON: No. You don't like her
17 answer, so you're trying to get
18 her to change it.
19 MR. JAFFREE: Because, come on,
20 obviously she was disciplined,
21 so she's got to be aware.
22 A. Oh, I'm sorry.

23 MS. NELSON: If we're staying here

0355

1 at this late date to determine

2 she was disciplined, I think

3 we're beyond that.

4 Q. Listen to the question. Are you aware of any

5 white employees, any white magistrates or

6 other employees who were accused of misconduct

7 being disciplined by the defendant?

8 A. Yes.

9 Q. Are you aware of any blacks who were accused

10 of misconduct or errors being disciplined?

11 A. No.

12 MR. JAFFREE: And I'm through with

13 her. I don't have any other

14 questions. She's exhausted.

15 Q. Your mind is drifting away from my questions.

16 A. I thought you were talking about other than

17 me. I'm sorry.

18 Q. Or even other than you.

19 A. Well, I knew --

20 MS. NELSON: That's all you have?

21 MR. JAFFREE: Yeah.

22 Not that that's all I

23 have. It's all I'm going to get

0356

1 because I don't know what I'm

2 going to get out of her, if

3 she'd answer my question.

4 EXAMINATION

5 BY MS. NELSON:

6 Q. He kept asking you about data entry errors

7 that Eunice and Lavera committed but were not

8 disciplined for. Tell me all of the data

9 entry errors that they made.

10 A. Well, I don't -- I mean, I've shared some of

11 them with you today. I know that there were

12 other magistrates that complained. I can't

13 tell you specifically which cases they were,

14 but I know that there were numerous mistakes.

15 I know that we had mistakes with the money

16 situation because Valarie Harris, the city

17 auditor, and I talked about that. She made

18 the judge aware of some of those errors.

19 Q. Were these like keying errors or entry errors?

20 A. Both. Yes.

21 Q. Now, he showed you this transmittal form. Why
22 do you void on a transmittal form; it's not a
23 keying error, is it?

0357

1 A. A keying error?

2 Q. A keying error, a data entry error?

3 A. A data entry error?

4 Q. Yeah, into a computer system?

5 A. Well, it's -- I mean, I'm sorry. I don't
6 understand the question.

7 Q. You handwrote "void" on that transmittal sheet
8 and drew a line through it?

9 A. Correct.

10 Q. That was your -- with a pen or pencil with
11 your own handwriting?

12 A. With a pen.

13 Q. You were not keying into any type of data
14 entry system or computer or typewriter, were
15 you?

16 A. I did not key that into -- that one into the
17 computer, no, because I did not have it.

18 Q. And your attorney -- through your attorney's I
19 guess, more testimony than yours, tried to get
20 you to say that that is a data -- I'm pointing
21 to Defendants' 34 -- your striking through and
22 writing "void" by Stephen Phelps' name as a
23 data error. Is that your -- you call that a

0358

1 data entry error?

2 A. That's states what happened to that ticket.

3 Q. And are you aware that your testimony today is
4 different than the testimony that you gave at
5 the Appeals Board Hearing before the Personnel
6 Board?

7 A. No.

8 MR. JAFFREE: Object. You didn't
9 tell her how it's different,
10 other than stating it's
11 different.

12 MS. NELSON: I don't have to tell
13 her anything.

14 MR. JAFFREE: Well, you told her, it
15 was different.

16 MS. NELSON: Well, I'm just asking
17 her if she's aware it's
18 different.

19 Q. Are you aware of what Officer Duhaime's
20 testimony was in that hearing?

21 A. I don't recall his testimony.

22 Q. Do you have any reason to believe that he was
23 not being truthful at that hearing?

0359

1 A. I don't know. I mean, I don't -- I can't
2 testify as to whether he was truthful or not.
3 I can only testify as to what I know.

4 Q. Would you say that hearing was a year or so
5 ago?

6 A. It was in 2005.

7 Q. Would you say your memory was better then than
8 it is now?

9 A. I don't know. I mean, I -- about this
10 particular incident? It could be, and it
11 couldn't be. I mean --

12 Q. Are you aware that Eunice or Lavera ever
13 voided -- excuse me, ever struck through a UTC
14 transmittal form indicating that a ticket
15 should be void?

16 A. No.

17 Q. And the effect of writing "void" on this
18 transmittal form was that ticket was not
19 entered into the system and it's almost as if
20 that ticket did not exist; isn't that the
21 result of --

22 A. Well, voided tickets do not get key in the
23 computer. They don't get assigned a case

0360

1 number.

2 MR. JAFFREE: Her testimony was the
3 ticket was not presented to be
4 keyed into the computer anyway.

5 Q. And if Officer Duhaime testified that he gave
6 you the ticket, it's your testimony that he's
7 not being truthful?

8 A. I did not have that ticket when -- when I
9 swore to this.

10 Q. When did you remember, you did not have that
11 ticket? You didn't remember that at the
12 Personnel Board hearing, did you?

13 A. I don't know. I don't -- I'd have to look
14 over --

15 Q. Did you just remember that today?

16 A. Do what now?

17 Q. Did you just remember today that you didn't
18 have that ticket when you voided this
19 transmittal form?

20 A. When I -- when I wrote "void" through there, I
21 did not have that ticket at that time when I
22 keyed them into the computer.

23 Q. Because you'd given -- you had it and you had
0361

1 even sworn to it, hadn't you, and then you
2 gave it back to Duhaime, didn't you?

3 A. No, ma'am.

4 Q. Did you ever see that ticket?

5 A. No, ma'am. I didn't even sign the ticket, but
6 I'd sworn to it. I mean, I didn't even have
7 it.

8 Q. How do you know you didn't sign it?

9 A. Because you showed it to me. I mean, I was
10 showed (sic) it. I showed -- it was shown to
11 me during the Personnel Board hearing.

12 Q. And you don't know what Officer Duhaime's
13 testimony was in that regard?

14 A. I don't recall. I'd have to go back and read
15 it. I don't recall.

16 Q. Do you have any reason to believe he would not
17 be truthful?

18 A. I don't know unless he was covering for
19 himself to where he didn't get in trouble. I
20 don't know.

21 Q. Do you know what contact Mary Turner may have
22 had with him about this ticket?

23 A. Not other than what was presented at -- at my
0362

1 hearing.

2 Q. Do you remember that part?

3 A. No. I'd have to go back and read it. I mean,
4 I don't remember the whole -- the whole
5 story.

6 Q. Now, you said -- and I asked you and your
7 attorney asked you that on all your
8 evaluations that I went through with you, you
9 concurred on the statements that were put in
10 there; is that correct?

11 A. Yes.

12 Q. And you did this whether it was Gayle Schwarz
13 or Donna Nicholson or Bettye King or Judge
14 Gordon; isn't that true?

15 A. Yes.

16 Q. And you had every opportunity to write down if
17 you disagreed or if you agreed or if you had a
18 question about it, didn't you?

19 A. I had an opportunity to do that, yes.

20 Q. And you chose to concur with what was written?

21 A. Yes. But that -- that doesn't mean I did not
22 dispute it verbally at the time.

23 Q. "Dispute it verbally" meaning what?

0363

1 A. When they were going over that with me as far
2 as maybe stating, you know, or by reading me
3 it, they didn't --

4 Q. You're saying, you verbally disagreed with
5 them?

6 A. I -- I could have. I'm sure I did. I
7 don't -- I wasn't told or shown anything that
8 if an attorney complained, I wasn't shown
9 anything where a attorney had complained.

10 I'm not going to sit there and say that,
11 yes, I agree with you stating that about that
12 attorney whenever I don't -- I -- I would've
13 said, no, I didn't agree.

14 Q. Didn't you have an opportunity to ask Donna
15 about it, Gayle about it, Bettye about it, if
16 there was a negative remark on your
17 evaluation?

18 A. I -- I could have. I don't remember each and
19 every evaluation, what was said.

20 Q. Well, you seem to be somebody that has strong
21 convictions or strong will, and if somebody
22 had put down something that was not true or
23 you disagree with, that you would let them

0364

1 know about it.

2 A. Well, I -- I could have verbally, but I didn't
3 write it down on the actual evaluation.

4 Q. And it wasn't true and it affected your
5 evaluation, you're telling me it wasn't
6 important enough to you to make more of an
7 issue of it?

8 A. Well, it wouldn't change it.

9 Q. How do you know?

10 A. They can't change the evaluations.

11 Q. How do you know?

12 A. I don't -- I don't know of any being able.

13 Q. You don't know. Have you ever been a manager
14 for the City of Dothan?

15 A. No.

16 Q. So you don't know for a fact that they
17 couldn't change an evaluation, do you?

18 A. I don't know.

19 Q. When Officer Etreess was talking to you about
20 a -- you were talking about a ticket. Was
21 this a ticket involving Mary Turner and
22 Bradley Phelps?

23 A. I don't -- I don't think it was him. I think
0365

1 it was involving Stephen Phelps, if I'm -- if
2 I'm correct on it.

3 Q. Etreess talked to you about Stephen Phelps?

4 A. I believe so, yes.

5 Q. And did that ticket -- I'm sorry. I thought
6 you said -- did he ask you about your
7 involvement with the Stephen Phelps' ticket;
8 was he talking to you about --

9 A. Yes.

10 Q. -- Defendants' 34?

11 A. Yes.

12 Q. Was he in any way asking you about Mary
13 Turner's involvement with the --

14 A. Yes.

15 Q. -- Stephen Phelps' ticket?

16 A. From what recall. I don't -- I mean, I don't
17 know of everything that was said. But I'm --
18 I'm sure he did. But I don't recall anything
19 that was said about that. But I do know it
20 was about this incident.

21 Q. And you're talking about Stephen Phelps?

22 A. Yes.

23 Q. Were you ever questioned about -- and I'm
0366

1 sorry. I'm either saying it's Bradley Phelps
2 or Brady Phelps. Were you ever questioned
3 about that?

4 A. I don't believe I was.

5 Q. And to your knowledge -- I mean, it was the
6 police department conducting an investigation
7 into some alleged criminal activity by Mary
8 Turner, is what started all this?

9 A. When I went to Officer Etreess, that's when I
10 learned that at that time.

11 Q. And as an employee of the City who worked in
12 the magistrate's office who, I guess, had some
13 involvement with the Stephen Phelps' ticket
14 who knew Mary Turner and worked with Mary
15 Turner, did you have any reason to question
16 the City's ability or rationale or reason for
17 investigating a serious accusation like that?

18 A. I'm sorry. I don't understand.

19 Q. Did you have any reason as an employee of the
20 city magistrate's office to question the City
21 looking into criminal activity -- alleged
22 criminal activity by your co-employee?

23 A. Did I have any right to do that?

0367

1 Q. Did you have any reason to question their
2 rationale for doing that?

3 A. Well, I didn't question them on that. I
4 don't -- I don't understand what you're
5 saying.

6 Q. Well, according to your attorney, you were
7 held hostage and kept in a room and
8 interrogated and --

9 A. Well, I wasn't allowed to leave.

10 Q. Well, were you not expected as an employee of
11 the City who might have knowledge of either of
12 a crime being committed or some wrongdoing in
13 your department to cooperate and tell them
14 what you knew?

15 A. Well, I did cooperate.

16 Q. Okay.

17 A. Yes.

18 Q. I mean, you did have an option of leaving;
19 your option may have been lack of cooperation
20 and you might have lost your job. Is that
21 what you're saying?

22 A. Well, I -- that's what -- yes. Because I was
23 told if I didn't cooperate with them or if I

0368

1 didn't sign something, I would be guilty of
2 insubordination. So I knew that, you know, I
3 didn't want to lose my job.

4 Q. In your mind, is that an unreasonable request?

5 A. I think so. I think it --

6 Q. You felt like as an employee you should not
7 have to cooperate?

8 A. No, not --

9 Q. You didn't have to tell them what you knew?

10 A. No.

11 Q. You were free to leave?

12 A. Yeah, if I wanted to lose my job.

13 Q. Yeah. But --

14 A. I didn't want to lose my job.

15 Q. Well, they weren't going to throw you in jail;
16 they weren't going to handcuff you, were they?

17 A. They -- on the questioning and the way that
18 they were presenting themselves, it was as if
19 I was a criminal sitting in a chair and they
20 were just -- not badgering, but they were very
21 harsh with their tone and the way that they
22 were questioning me.

23 And, no, I could not leave because I had
0369

1 to answer and cooperate with them. So I felt
2 like I had to stay there --

3 Q. Did you feel like that was an unreasonable --

4 A. -- for my job.

5 Q. -- request?

6 A. The way that it went about, that first one,
7 yes, I do. I feel like that Judge Gordon
8 should have handled that.

9 Q. The first one?

10 A. I believe that she --

11 Q. The one in 2001?

12 A. Yes. But I also believe on the other one,
13 that it should have -- my department head
14 should've been able to call me in as her
15 employee and talk to me about a situation and
16 give --

17 Q. I understand that you don't agree with the way
18 that it was handled, but are you aware that
19 other people were questioned?

20 A. I assume some others were questioned.

21 Q. And do you know how they were questioned?

22 A. No.

23 Q. If the same questions were asked, if they were
0370

1 called in, if they were told they had to
2 cooperate?

3 A. I don't have any idea because I asked for
4 copies of things, but I was not given them.

5 Q. Are you aware the City has a drug testing
6 policy, and if you're suspected of using

7 drugs, that you're expected to cooperate and
8 give a drug test or you're going to be fired?
9 Do you know that's the policy?

10 A. I'm not sure if that's the policy, but I do
11 know that they can drug test you.

12 Q. Well, do you think that's unreasonable?

13 A. No.

14 Q. They can send you for a drug test and tell you
15 to cooperate or you're going to be fired?

16 MR. JAFFREE: Let me object. This
17 is entirely argumentative.

18 MS. NELSON: No, it's not.

19 MR. JAFFREE: She's telling you that
20 she thought it was unreasonable,
21 and you're trying to give her
22 some hypotheticals of what --

23 MS. NELSON: That's not a

0371

1 hypothetical. That's a policy
2 of the City.

3 Q. Do you think the City can ask certain things
4 of its employees --

5 MR. JAFFREE: Anyway.

6 Q. -- to cooperate?

7 MR. JAFFREE: I object to the
8 badgering of this witness,
9 trying to make her think like
10 you think, that there was
11 nothing wrong with the police
12 interrogating her by every time
13 a judge decides that they want
14 some information.

15 MS. NELSON: Well, you have no
16 evidence that it was the judge
17 that wanted that information,
18 number one, or who started the
19 investigations in the first
20 place.

21 MR. JAFFREE: Well, I think I do.

22 MS. NELSON: And, you know, your
23 view of the world is that nobody

0372

1 has to cooperate and a city
2 cannot have any rules.

3 MR. JAFFREE: That's not quite my
4 view of the world.

5 MS. NELSON: And she can ignore them
6 all she wants.

7 MR. JAFFREE: That's not quite my
8 view, but I'm just objecting for
9 the Record. Okay?

10 MS. NELSON: Okay. I believe that's
11 all I have.

12 MR. JAFFREE: I've got to cover this
13 one area that you just covered.

14 In cross-examination --

15 MS. NELSON: You don't get to
16 cross-examine your own witness
17 and you can't lead her.

18 MR. JAFFREE: But you said something
19 that's going to leave a
20 misleading impression, that she
21 gave a different statement than
22 she gave before.

23 MS. NELSON: She did.

0373

1 MR. JAFFREE: And I'm going to cover
2 that.

3 EXAMINATION

4 BY MR. JAFFREE:

5 Q. Is it possible that the -- that a police
6 officer could have left tickets, and before
7 you got them and examined them, one of the
8 tickets could have been retrieved by anybody
9 and given back to the police officer?

10 MS. NELSON: Object to the form.

11 That's so hypothetical.

12 MR. JAFFREE: That's hypothetical
13 and it may be likely what
14 happened her.

15 Q. If a police officer says that he left the
16 tickets, but at the time you examined them,
17 the ticket wasn't present, can those two
18 things both exist?

19 MS. NELSON: Object to the form.

20 There's no evidence that
21 occurred. That's totally
22 speculative.

23 MR. JAFFREE: Well, the evidence is

0374

1 that Mary Turner retrieved the
2 ticket and sent it back to the

3 police officer in an envelope.
4 That's the evidence. But the
5 question is whether she --
6 MS. NELSON: No, it's not the
7 evidence.

8 MR. JAFFREE: That is the evidence.
9 The evidence is Mary Turner sent
10 the tickets back to the police
11 officer in an envelope.

12 MS. NELSON: I object to your
13 testifying. That's not the
14 evidence.

15 MR. JAFFREE: Well, that's the
16 evidence that I know about in
17 this case. There's no evidence
18 that she sent the tickets back
19 to the police officer or he came
20 and got them back from her
21 physically.

22 MS. NELSON: But there is the
23 evidence that she had the

0375

1 ticket.

2 MR. JAFFREE: Well, there's no
3 evidence that she had the ticket
4 at the time she made this data
5 entry, and I contend that
6 putting any kind of entry on
7 this form is data.

8 MS. NELSON: You're not here
9 testifying today.

10 MR. JAFFREE: But my question is to
11 her:

12 Q. Are those two inconsistent, that he could've
13 left the ticket, but at the time you did these
14 entries, the ticket was no longer there?

15 MS. NELSON: Object to the form.

16 A. Yes.

17 Q. Are these tickets kept in a safe at all
18 times? So from the time an officer gives them
19 to you until the time you look at them and put
20 in the computer, they're in a safe and nobody
21 else can touch them?

22 A. No.

23 Q. Are they where other people who are employed

0376

1 with the magistrate's office can obtain access
2 to these tickets?

3 A. Yes.

4 Q. So if some magistrate wanted to come and rifle
5 through some tickets and pull one out, would
6 they have been able to do it?

7 MS. NELSON: Object to the form.

8 Q. You understand the question?

9 A. Yes.

10 Q. That could've happened, right?

11 A. Yes.

12 Q. And you testified earlier that not all the
13 times you're putting the data entry in at the
14 same time he hands you the ticket. If that
15 had happened, when you went to put this data
16 entry in, this ticket would've been present,
17 correct?

18 A. Correct.

19 MS. NELSON: Object to the form.

20 Q. So if you called him and asked him and he says
21 that he got the ticket or he had voided it
22 out, then your putting "void" is consistent
23 with what he said, right?

0377

1 A. Yes.

2 Q. So that could be consistent with his
3 testimony, that he left the tickets and
4 somebody sent them back to him, but you never
5 had the ticket when you put this entry in?

6 MS. NELSON: Object to form.

7 Q. You understand that?

8 A. Yes.

9 Q. And you understand how that could happen?

10 A. Yes.

11 Q. Would that be a difference in your testimony
12 from before?

13 A. No. Because at the time I had written that on
14 there, I did not have the ticket.

15 Q. If you had the ticket and the police officer
16 had not talked to you, would there have been
17 any reason for you to not go ahead and put it
18 in, and on the original, is there any
19 indication that the original was whited out?

20 A. No.

21 Q. So you're putting these numbers in, right?

22 A. Right.

23 Q. You know, you've got --

0378

1 A. Well, the tickets are not immediately keyed in
2 the system when an officer turns them in to
3 us.

4 Q. Yeah. Well, I understand that. But if you
5 keyed in these and if the officer -- nobody
6 had told you that they wanted the ticket back,
7 would there be any reason for you not to key
8 in that ticket if you had it?

9 Are you following me?

10 A. Right.

11 Q. So, now, you could have keyed it in and
12 whited out, but is there any evidence that was
13 presented to you that this entry had been
14 whited out and voided, written over it?

15 A. No.

16 Q. And can you generally tell if something is
17 whited out and you write "void" over it --
18 over Wite-Out?

19 A. If -- yeah, I mean, I would think so.

20 Q. I mean, most people can tell because the
21 Wite-Out distorts the words, right?

22 A. Yes.

23 Q. So absent of Wite-Out, at the time you put

0379

1 these entries in, there was no ticket?

2 A. That's correct.

3 Q. Because there would've been no reason for you
4 not to put the entry in, correct?

5 A. That's correct.

6 Q. Is that your testimony?

7 A. Yes.

8 Q. Are you comfortable with that testimony?

9 A. Yes.

10 MS. NELSON: Object to the form.

11 All that's hypothetical.

12 EXAMINATION

13 BY MS. NELSON:

14 Q. Do you have any evidence that you left the
15 tickets in a stack and somebody filtered
16 through them and took it out and wasn't there
17 when you did this?

18 A. There is a basket in the main area where we
19 put tickets that have to be keyed in, that we
20 put those in there.

21 Q. And it's your testimony that somebody rifled
22 through there and pulled that out, and that's
23 why you didn't have it?

0380

1 A. It could happen. I mean, I could've --

2 Q. But do you have any evidence that it did
3 happen?

4 MR. JAFFREE: It --

5 MS. NELSON: No. I'm asking her
6 questions now.

7 Q. You don't have any evidence that that happened
8 do you?

9 A. I -- I don't understand.

10 Q. It's just as possible that Mary Turner called
11 you and said, void that ticket --

12 A. No, ma'am.

13 Q. -- on Stephen Phelps?

14 A. No, ma'am.

15 MR. JAFFREE: That didn't happen.

16 A. No, that didn't happen.

17 MR. JAFFREE: Now, you're
18 speculating.

19 Q. How many times in your career as magistrate
20 have you ever, ever done this before?

21 A. I don't recall.

22 Q. And you're under oath. You've never done it
23 before, have you?

0381

1 A. I don't know. I -- I've -- I had -- I've
2 testified to the fact that if tickets are
3 missing when you're keying them in and you
4 don't have it, either the officer --

5 Q. You track that officer down, you find that
6 ticket, and you get to the bottom of this.
7 You've never voided -- there is never -- there
8 is not a transmittal form on record that
9 you've ever done this to, is there?

10 A. Not to my knowledge.

11 EXAMINATION

12 BY MR. JAFFREE:

13 Q. Have you seen all the transmittal forms?

14 A. No.

15 MS. NELSON: I said that she had
16 filled out, and she said, not to
17 her knowledge.

18 Q. Have you seen all the transmittal forms that

19 you have filled out?

20 A. No.

21 Q. Could you have possibly filled out one and
22 wrote "void" on it?

23 A. It could be possible. I mean, I'm don't --
0382

1 I'm not saying that it hasn't happened, but

2 I'm not seen that it has.

3 EXAMINATION

4 BY MS. NELSON:

5 Q. What do you mean, you've not seen every
6 transmittal form you filled out; you have to
7 sign them, don't you?

8 A. Ma'am, I have signed a lot of transmittal
9 forms over my years that I was employed. I'm
10 not --

11 Q. When do you sign this, when the officer gives
12 it to you -- gives you the ticket?

13 A. Yes.

14 Q. And you're certifying that you had all of
15 these tickets when you signed that, didn't
16 you?

17 A. I did not verify -- I know I signed that, but
18 I did not verify that I had the ticket which
19 matched the transmittal. That's something
20 that all magistrates -- I know that they have
21 not done.

22 MR. JAFFREE: Let me ask you this.

23 MS. NELSON: I'm still asking her
0383

1 questions.

2 MR. JAFFREE: Oh, okay.

3 MS. NELSON: I have no questions.

4 EXAMINATION

5 BY MR. JAFFREE:

6 Q. All right. Just one final question. Are you
7 required to sign the ticket when you put it in
8 the computer?

9 A. It should be signed when it's put in the
10 computer.

11 Q. Should it be signed by you if you put it in?

12 A. Yes. Well, not if you put it in. I mean, I
13 can key in other tickets that need to be keyed
14 in the system, but they were sworn to by other
15 magistrates.

16 Q. But the ticket is supposed to be signed by a

17 magistrate, right?

18 A. Yes.

19 Q. Was that ticket signed by a magistrate?

20 A. No.

21 Q. Which meant what?

22 A. That it was wasn't sworn to. I mean, I

23 don't --

0384

1 Q. So when a ticket is signed by a magistrate,
2 that's when it's sworn to, right?

3 Is this the ticket here, Defendants'

4 Exhibit 35?

5 A. Yes.

6 Q. Where on Defendants' Exhibit 35 should a
7 magistrate sign?

8 A. There (indicating.)

9 Q. Where it says, "verified and acknowledged
10 before me this date," judge, and a magistrate,
11 right?

12 A. Yes.

13 Q. And so for the ticket to be put into the
14 system, it's got to be signed by a magistrate?

15 A. Well, there were times that it's happened.

16 If -- if a -- if the magistrate forgets to
17 sign it, we'll get them to sign it, you know,
18 if we pulled the transmittal and found out who
19 swore to it. It should be signed.

20 Q. So there's no dispute this ticket was never
21 put into the system?

22 A. No, it was not.

23 Q. And you don't know whether or not the ticket

0385

1 was ever provided by Officer Duhaime or not,
2 do you?

3 A. No, I don't.

4 Q. Prior to your hearing, do you recall ever
5 seeing this ticket?

6 A. No. I mean, I don't recall seeing it. For my
7 hearing? Oh, well, during the investigation
8 part.

9 Q. Yeah.

10 A. Yeah.

11 Q. Prior to your administrative hearing, do you
12 recall seeing that ticket?

13 I mean, is there anything about that
14 ticket that stands out, caused you to remember

15 it over the thousands of tickets --

16 A. No.

17 Q. -- that you processed?

18 A. No.

19 Q. But your signature is not on it?

20 A. That's correct.

21 MR. JAFFREE: I have nothing

22 further.

23

0386

1 MS. NELSON: I have nothing. Thank

2 you.

3 (Deposition concluded at 5:55 p.m.)

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